

COMPILATION
OF
SELECTED FEDERAL NUTRITION STATUTES

COMMITTEE ON AGRICULTURE,
NUTRITION, AND FORESTRY
UNITED STATES SENATE



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FOOD STAMP ACT OF 1977 ¹

SHORT TITLE

SEC. 1. This Act may be cited as the "Food Stamp Act of 1977".

DECLARATION OF POLICY

SEC. 2. It is hereby declared to be the policy of Congress, in order to promote the general welfare, to safeguard the health and well-being of the Nation's population by raising levels of nutrition among low-income households. Congress hereby finds that the limited food purchasing power of low-income households contributes to hunger and malnutrition among members of such households. Congress further finds that increased utilization of food in establishing and maintaining adequate national levels of nutrition will promote the distribution in a beneficial manner of the Nation's agricultural abundance and will strengthen the Nation's agricultural economy, as well as result in more orderly marketing and distribution of foods. To alleviate such hunger and malnutrition, a food stamp program is herein authorized which will permit low-income households to obtain a more nutritious diet through normal channels of trade by increasing food purchasing power for all eligible households who apply for participation. (7 U.S.C. 2011).

DEFINITIONS

SEC. 3. As used in this Act, the term:

(a) "Allotment" means the total value of coupons a household is authorized to receive during each month.

(b) "Authorization card" means the document issued by the State agency to an eligible household which shows the allotment the household is entitled to be issued.

(c) "Certification period" means the period for which households shall be eligible to receive authorization cards. For those households that are required to submit periodic reports under section 6(c)(1) of this Act, the certification period shall be at least six months but no longer than twelve months except that the limit of twelve months may be waived by the Secretary to improve the administration of the program.² For households that are not required to submit periodic reports, the certification period shall be determined as follows:

(1) In the case of a household all of whose members are included in a federally aided public assistance or general assistance grant, the period shall coincide with the period of such grant.

¹ Title XIII of the Food and Agriculture Act of 1977, Public Law 95-113, 91 Stat. 958, replaced the Food Stamp Act of 1964, as amended.

² Amended by Public Law 97-35, section 108(a), 95 Stat. 361, Aug. 13, 1981, by adding the language beginning, "except that the limit" through to the end of the sentence.

(2) In the case of all other households, the period shall be not less than three months: *Provided*, That such period may be up to twelve months for any household consisting entirely of unemployable or elderly or primarily self-employed persons, or as short as circumstances require for those households as to which there is a substantial likelihood of frequent changes in income or household status, and for any household on initial certification, as determined by the Secretary.³

(d) "Coupon" means any coupon, stamp, or type of certificate issued pursuant to the provisions of this Act.

(e) "Coupon issuer" means any office of the State agency or any person, partnership, corporation, organization, political subdivision, or other entity with which a State agency has contracted for, or to which it has delegated functional responsibility in connection with, the issuance of coupons to households.

(f) "Drug addiction or alcoholic treatment and rehabilitation program" means any such program conducted by a private nonprofit organization or institution which is certified by the State agency or agencies designated by the Governor as responsible for the administration of the State's programs for alcoholics and drug addicts pursuant to Public Law 91-616 (Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970) and Public Law 92-255 (Drug Abuse Office and Treatment Act of 1972) as providing treatment that can lead to the rehabilitation of drug addicts or alcoholics.

(g) "Food" means (1) any food or food product for home consumption except alcoholic beverages, tobacco, and hot foods or hot food products ready for immediate consumption other than those authorized pursuant to clauses (3), (4), (5), (7), and (8)⁴ of this subsection, (2) seeds and plants for use in gardens to produce food for the personal consumption of the eligible household, (3) in the case of those persons who are sixty years of age or over or who receive supplemental security income benefits under title XVI of the Social Security Act, and their spouses, meals prepared by and served in senior citizens' centers, apartment buildings occupied primarily by such persons, public or private nonprofit establishments (eating or otherwise) that feed such persons, private establishments that contract with the appropriate agency of the State to offer meals for such persons at concessional prices, and meals prepared for and served to residents of federally subsidized housing for the elderly, (4) in the case of persons sixty years of age or over and persons who are physically or mentally handicapped or otherwise so disabled that they are unable adequately to prepare all of their meals, meals prepared for and delivered to them (and their spouses) at their home by a public or private nonprofit organization or by a private establishment that contracts with the appropriate State agency to perform such services at concessional prices, (5) in the case of narcotics addicts or alcoholics served by drug addiction or alcoholic treatment and rehabilitation programs, meals prepared

³ Amended Public Law 96-249, section 111, 94 Stat. 360, May 26, 1980, to include certification period for households required to submit periodic reports.

⁴ Amended Public Law 96-58, section 7(1), 93 Stat. 392, Aug. 14, 1979, to add the reference to clause (7). Amended by Public Law 96-249, section 101(a)(1), 94 stat. 357, May 26, 1980, to delete the words "and 7" and inserting in lieu thereof "(7), and (8)".

and served under such programs, (6) in the case of certain eligible households living in Alaska, equipment for procuring food by hunting and fishing, such as nets, hooks, rods, harpoons, and knives (but not equipment for purposes of transportation, clothing, or shelter, and not firearms, ammunition, and explosives) if the Secretary determines that such households are located in an area of the State where it is extremely difficult to reach stores selling food and that such households depend to a substantial extent upon hunting and fishing for subsistence, (7) in the case of disabled or blind recipients of benefits under title II or title XVI of the Social Security Act who are residents in a public or private nonprofit group living arrangement that serves no more than sixteen residents and is certified by the appropriate State agency or agencies under regulations issued under section 1616(e) of the Social Security Act, meals prepared and served under such arrangement,⁵ and (8) in the case of women and children temporarily residing in public or private nonprofit shelters for battered women and children, meals prepared and served, by such shelters.⁶

(h) "Food stamp program" means the program operated pursuant to the provisions of this Act.

(i) "Household" means (1) an individual who lives alone or who, while living with others, customarily purchases food and prepares meals for home consumption separate and apart from the others, or (2) a group of individuals who live together and customarily purchase food and prepare meals together for home consumption, except that parents and children who live together shall be treated as a group of individuals who customarily purchase and prepare meals together for home consumption even if they do not do so, unless one of the parents is sixty years of age or older⁷ or receives supplemental security income benefits under title XVI of the Social Security Act or disability or blindness payments under title I, II, X, XIV, or XVI of the Social Security Act.⁸ In no⁹ event shall any individual or group of individuals constitute a household if they reside in an institution or boarding house or else live with others and pay compensation to the others for meals.¹⁰ For the purpose of this subsection, residents of federally subsidized housing for the elderly, disabled or blind recipients of benefits under title II or title XVI of the Social Security Act who are residents in a public or pri-

⁵ Amended by Public Law 96-58, section 7, 93 Stat. 392, Aug. 14, 1979, to add subsection 3(g)(7). This provision "... shall be implemented in all States by July 1, 1980, and shall not affect the rights or liabilities of the Secretary, States, and applicant or participating households, under the Food Stamp Act of 1977 in effect on July 1, 1979, until implemented." (Public Law 96-58, section 10(c), 93 Stat. 393, Aug. 14, 1979).

⁶ Amended by Public Law 96-249, sections 101(a) (2) and (3), 94 Stat. 357, May 26, 1980, to delete the word "and" before "(7)" and add clause "(8)".

⁷ Amended by Public Law 97-35, 101(1), 95 Stat. 357, Aug. 13, 1981, to include language beginning "except that parents" through and including the language "sixty years of age or older".

⁸ Amended by Public Law 97-98, section 1302, 95 Stat. 1282, Dec. 22, 1981, to insert before the period at the end of the first sentence the language beginning at "or receives supplemental security income ..." through to the end of that sentence. Further amended by Public Law 97-35, section 102, 95 Stat. 357, Aug. 13, 1981, to exclude boarders from household definition by striking out in clause (1) of the first sentence "or else pays compensation to the others for such meals"; striking out in clause (2) of the first sentence "or else live with others and pay compensation to the others for such meals".

⁹ Amended by Public Law 97-35, section 101(2), 95 Stat. 357, Aug. 13, 1981, to replace the word "neither" in second sentence with "no".

¹⁰ Amended by Public Law 97-35, section 102, 95 Stat. 357, Aug. 13, 1981, to add before the period at the end of the second sentence "or else live with others and pay compensation to the others for meals."

vate nonprofit group living arrangement that serves no more than sixteen residents and is certified by the appropriate State agency or agencies under regulations issued under section 1616(e) of the Social Security Act,¹¹ temporary residents of public or private nonprofit shelters for battered women and children,¹² and narcotics addicts or alcoholics who live under the supervision of a private nonprofit institution for the purpose of regular participation in a drug or alcoholic treatment program shall not be considered residents of institutions and shall be considered individual households.¹³

(j) "Reservation" means the geographically defined area or areas over which a tribal organization (as that term is defined in section 3(p) of this Act) exercises governmental jurisdiction.

(k) "Retail food store" means (1) an establishment or recognized department thereof or house-to-house trade route, over 50 per centum of whose food sales volume consists of staple food items for home preparation and consumption, such as meat, poultry, fish, bread, cereals, vegetables, fruits, dairy products, and the like, but not including accessory food items, such as coffee, tea, cocoa, carbonated and uncarbonated drinks, candy, condiments, and spices, (2) an establishment, organization, program, or group living arrangement referred to in subsections (g)(3), (4), (5), (7),¹⁴ and (8)¹⁵ of this section, (3) a store purveying the hunting and fishing equipment described in subsection (g)(6) of this section, and (4) any private nonprofit cooperative food purchasing venture, including those in which the members pay for food purchased prior to the receipt of such food.

(l) "Secretary" means the Secretary of Agriculture.

(m) "State" means the fifty States, the District of Columbia, Guam, Puerto Rico,* the Virgin Islands of the United States, and the reservations of an Indian tribe whose tribal organization meets the requirements of this Act for participation as a State agency.

(n) "State agency" means (1) the agency of State government, including the local offices thereof, which has the responsibility for the administration of the federally aided public assistance programs within such State, and in those States where such assistance programs are operated on a decentralized basis, the term shall include the counterpart local agencies administering such programs, and (2) the tribal organization of an Indian tribe determined by the Secretary to be capable of effectively administering a food distribution program under section 4(b) of this Act or a food stamp program under section 11(d) of this Act.

¹¹ Amended by Public Law 96-58, section 7(4), 93 Stat. 392, Aug. 14, 1979, to include the provision referring to certain disabled and blind individuals. (See fn. 5 for implementation instructions).

¹² Amended by Public Law 96-249, section 101(a)(4), 94 Stat. 357, May 26, 1980, to include temporary residents of public or private nonprofit shelters for battered women and children.

¹³ Amended by Public Law 96-58, section 7(b), 93 Stat. 392, Aug. 14, 1979, to add the final clause to subsection 3(i). (See fn. 5 for implementation instructions).

¹⁴ Amended by Public Law 96-58, section 7(b), 93 Stat. 392, Aug. 14, 1979, to add the words "or group living arrangement" and "(7)." (See fn. 5 for implementation instructions).

¹⁵ Amended by Public Law 96-249, section 101(a)(5), 94 Stat. 357, May 16, 1980, to delete the word "and" before "(7)," and add the words "and (8)".

*"Puerto Rico" will be deleted July 1, 1982, when the block grant provision of section 19 is effective. See Public Law 97-35, section 116(a)(2), 95 Stat. 364, Aug. 13, 1982.

(o) "Thrifty food plan" means the diet required to feed a family of four persons consisting of a man and a woman twenty through fifty-four, a child six through eight, and a child nine through eleven years of age, determined in accordance with the Secretary's calculations. The cost of such diet shall be the basis for uniform allotments for all households regardless of their actual composition, except that the Secretary shall (1) make household-size adjustments taking into account economies of scale, (2) make cost adjustments in the thrifty food plan for Hawaii and the urban and rural parts of Alaska to reflect the cost of food in Hawaii and urban and rural Alaska,¹⁶ (3) make cost adjustments in the separate thrifty food plans for Guam, Puerto Rico*, and the Virgin Islands of the United States to reflect the cost of food in those States, but not to exceed the cost of food in the fifty States and the District of Columbia, (4) through January 1, 1980,¹⁷ adjust the cost of such diet every January 1 and July 1 to the nearest dollar increment to reflect changes in the cost of the thrifty food plan for the six months ending the preceding September 30 and March 31, respectively, (5) on January 1, 1981, adjust the cost of such diet to the nearest dollar increment to reflect changes in the cost of the thrifty food plan for the twelve months ending the preceding September 30,¹⁸ (6) on October 1, 1982, adjust the cost of such diet to the nearest dollar increment to reflect changes in the cost of the thrifty food plan for the twenty-one months ending the preceding June 30, 1982, and (7) on October 1, 1983, and each October 1 thereafter, adjust the cost of such diet to the nearest dollar increment to reflect changes in the cost of the thrifty food plan for the twelve months ending the preceding June 30: *Provided*, That the periods upon which such adjustments are based shall be subject to revision by Act of Congress.¹⁹

(p) "Tribal organization" means the recognized governing body of an Indian tribe (including the tribally recognized intertribal organization of such tribes), as the term "Indian tribe" is defined in the Indian Self-Determination Act (25 U.S.C. 450b(b)), as well as any Indian tribe, band, or community holding a treaty with a State government.

(q) "Allowable medical expenses" means expenditures for (1) medical and dental care, (2) hospitalization or nursing care (including hospitalization or nursing care of an individual who was a household member immediately prior to entering a hospital or nursing home), (3) prescription drugs when prescribed by a licensed practitioner authorized under State law and over-the-counter medication (including insulin) when approved by a licensed practitioner or other qualified health professional, (4) health and hospitalization insurance policies (excluding the costs of health and accident or income maintenance policies), (5) medicare premiums related to coverage under title XVIII of the Social Security Act, (6) dentures, hearing aids, and prosthetics (including the costs of securing and

¹⁶ Amended by Public Law 97-98, section 1303, 95 Stat. 1282, Dec. 22, 1981, to make clause (2) read as indicated.

¹⁷ Amended by Public Law 96-249, section 135 (1) and (2), 94 Stat. 369, May 26, 1980, to delete the word "and" before "(4)." and insert the words "through January 1, 1980."

¹⁸ Amended by Public Law 96-249, section 135(3), 94 Stat. 369, May 26, 1980, to add clause (5).

¹⁹ Amended by Public Law 97-98, section 1304, 95 Stat. 1282, Dec. 22, 1981, to strike out former clauses (6) through (9) inclusive and substitute new clauses (6) and (7).

maintaining a seeing eye dog), (7) eye glasses prescribed by a physician skilled in eye disease or by an optometrist, (8) reasonable costs of transportation necessary to secure medical treatment or services, and (9) maintaining an attendant, homemaker, home health aide, housekeeper, or child care services due to age, infirmity, or illness.²⁰ (7 U.S.C. 2012).

ESTABLISHMENT OF THE FOOD STAMP PROGRAM

SEC. 4. (a) Subject to the availability of funds appropriated under section 18 of this Act, the Secretary is authorized to formulate and administer a food stamp program under which, at the request of the State agency, eligible households within the State shall be provided an opportunity to obtain a more nutritious diet through the issuance to them of an allotment. The coupons so received by such households shall be used only to purchase food from retail food stores which have been approved for participation in the food stamp program. Coupons issued and used as provided in this Act shall be redeemable at face value by the Secretary through the facilities of the Treasury of the United States.

(b) In jurisdictions where the food stamp program is in operation, there shall be no distribution of federally donated foods to households under the authority of any law, except that distribution may be made (1) on a temporary basis under programs authorized by law to meet disaster relief needs, or (2) for the purpose of the commodity supplemental food program. Distribution of commodities, with or without the food stamp program, shall also be made whenever a request for concurrent or separate food program operations, respectively, is made by a tribal organization. In the event of distribution on all or part of an Indian reservation, the appropriate agency of the State government in the area involved shall be responsible for such distribution, except that, if the Secretary determines that the tribal organization is capable of effectively and efficiently administering such distribution, then such tribal organizations shall administer such distribution: *Provided*, That the Secretary shall not approve any plan for such distribution which permits any household on any Indian reservation to participate simultaneously in the food stamp program and the distribution of federally donated foods. The Secretary is authorized to pay such amounts for administrative costs of such distribution on Indian reservations as the Secretary finds necessary for effective administration of such distribution by a State agency or tribal organization.

(c) The Secretary shall issue such regulations consistent with this Act as the Secretary deems necessary or appropriate for the effective and efficient administration of the food stamp program and shall promulgate all such regulations in accordance with the procedures set forth in section 553 of title 5 of the United States Code. In addition, prior to issuing any regulation, the Secretary shall provide the Committee on Agriculture of the House of Representatives

²⁰ Amended by Public Law 96-58, section 3, 93 Stat. 390-391, Aug. 14, 1979, to add subsection 3(q). This provision is to "be implemented in all States by January 1, 1980, and shall not affect the rights or liabilities of the Secretary, States, and applicant or participant households, under the Food Stamp Act of 1977 in effect on July 1, 1979, until implemented". (Public Law 96-58, section 10(a), 93 Stat. 392).

and the Committee on Agriculture, Nutrition, and Forestry of the Senate a copy of the regulation with a detailed statement justifying it. (7 U.S.C. 2013).

ELIGIBLE HOUSEHOLDS

SEC. 5. (a) Participation in the food stamp program shall be limited to those households whose incomes and other financial resources, held singly or in joint ownership, are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet. Assistance under this program shall be furnished to all eligible households who make application for such participation.

(b) The Secretary shall establish uniform national standards of eligibility (other than the income standards for Alaska, Hawaii, Guam, Puerto Rico,* and the Virgin Islands of the United States established in accordance with subsections (c) and (e) of this section) for participation by households in the food stamp program in accordance with the provisions of this section. No plan of operation submitted by a State agency shall be approved unless the standards of eligibility meet those established by the Secretary, and no State agency shall impose any other standards of eligibility as a condition for participating in the program.

(c) The income standards of eligibility shall be—

(1) for households containing a member who is sixty years of age or over or a member who receives supplemental security income benefits under title XVI of the Social Security Act or disability and blindness payments under titles, I, II, X, XIV, and XVI of the Social Security Act, 100 per centum, and

(2) for all other households, 130 per centum, of the nonfarm income poverty guidelines prescribed by the Office of Management and Budget,²¹ adjusted annually pursuant to section 625 of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2971d), for the forty-eight States and the District of Columbia, Alaska, Hawaii, Puerto Rico,* the Virgin Islands of the United States, and Guam, respectively: *Provided*, That in no event shall the standards of eligibility for Puerto Rico,* the Virgin Islands of the United States, or Guam exceed those in the forty-eight contiguous States.²²

(d) Household income for purposes of the food stamp program shall include all income from whatever source excluding only (1) any gain or benefit which is not in the form of money payable directly to a household, (2) any income in the certification period which is received too infrequently or irregularly to be reasonably anticipated, but not in excess of \$30 in a quarter, subject to modification by the Secretary in light of section 5(f) of this Act,²³ (3) all

*"Puerto Rico" will be deleted July 1, 1982, when the block grant provision of section 19 is effective. See Public Law 97-35, section 116(a)(2), 95 Stat. 364, Aug. 13, 1981.

²¹ Amended by Public Law 97-35, section 104(a)(1), 95 Stat. 358, Aug. 13, 1981, by striking all before "adjusted annually" and adding new subparagraphs (1) and (2) to note.

²² Amended by Public Law 96-249, section 137, 94 Stat. 370, May 26, 1980, to delete clause following "forty-eight contiguous States".

²³ Amended by Public Law 96-249, section 112, 94 Stat. 361, May 26, 1980, to add the words "subject to modification by the Secretary in light of section 5(f)(2) of this Act," and further amended by Public Law 97-35, section 107(c), 95 Stat. 361, Aug. 13, 1981, to delete "5(f)(2)" and substitute "5(f)".

educational loans on which payment is deferred, grants, scholarships, fellowships, veterans' educational benefits, and the like to the extent that they are used for tuition and mandatory school fees at an institution of higher education or school for the handicapped, (4) all loans other than educational loans on which repayment is deferred, (5) reimbursements which do not exceed expenses actually incurred and which do not represent a gain or benefit to the household: *Provided*, That no portion of benefits provided under title IV-A of the Social Security Act, to the extent it is attributable to an adjustment for work-related or child care expenses, shall be considered such reimbursement,²⁴ (6) moneys received and used for the care and maintenance of a third-party beneficiary who is not a household member, (7) income earned by a child who is a member of the household, who is a student, and who has not attained his eighteenth birthday, (8) moneys received in the form of nonrecurring lump-sum payments, including, but not limited to, income tax refunds, rebates, or credits, retroactive lump-sum social security or railroad retirement pension payments and retroactive lump-sum insurance settlements: *Provided*, That such payments shall be counted as resources, unless specifically excluded by other laws, (9) the cost of producing self-employed income, (10) any income that any other Federal law specifically excludes from consideration as income for the purpose of determining eligibility for the food stamp program, and (11) any payments or allowances made under (A) any Federal law for the purpose of providing energy assistance, or (B) any State or local laws for the purpose of providing energy assistance, designated by the State or local legislative body authorizing such payments or allowances as energy assistance, and determined by the Secretary to be calculated as if provided by the State or local government involved on a seasonal basis for an aggregate period not to exceed six months in any year even if such payments or allowances (including tax credits) are not provided on a seasonal basis because it would be administratively infeasible or impracticable to do so.²⁵

(e) In computing household income for purposes of determining eligibility and benefit levels for households described in subsection (c)(1) and determining benefit levels only for all other households²⁶ the Secretary shall allow a standard deduction of \$85 a month for each household, except that households in Alaska, Hawaii, Guam, Puerto Rico,* and the Virgin Islands of the United States shall be allowed a standard deduction of \$145, \$120, \$170, \$50,** and \$75, respectively.²⁷ Such standard deductions shall be adjusted (1) on July 1, 1983, to the nearest \$5 increment to reflect changes in the

²⁴ Amended by Public Law 97-98, section 1305, 95 Stat. 1282, Dec. 22, 1981, to add the proviso in clause (5).

²⁵ Amended by Public Law 97-98, section 1306, 95, Stat. 1283, Dec. 22, 1981, to strike former clause (10) and all that follows in subsection (d) and add the language indicated.

* "Puerto Rico" will be deleted July 1, 1982, when the block grant provision of section 19 is effective. See Public Law 97-35, section 116(a)(2), 95 Stat. 364, Aug. 13, 1981.

** "\$50" will be deleted July 1, 1982 when the block grant provision of section 19 is effective. See Public Law 97-35, section 116(a)(2), 95 Stat. 364, Aug. 1981.

²⁶ Amended by Public Law 97-35, section 104(a)(2), 95 Stat. 359, Aug. 13, 1981, to insert the language beginning, "for purposes of determining eligibility" through the language "for all other households".

²⁷ Amended by Public Law 97-35, section 105(1), 95 Stat. 359, Aug. 13, 1981, to strike all that follows, "allow a standard deduction of" and revise that sentence as indicated.

Consumer Price Index for all urban consumers published by the Bureau of Labor Statistics, for items other than food and the homeownership component of shelter costs, as appropriately adjusted by the Bureau of Labor Statistics after consultation with the Secretary, for the fifteen months ending the preceding March 31, (2) on October 1, 1984, to the nearest \$5 increment to reflect such changes for the fifteen months ending the preceding June 30, and (3) on October 1, 1985, and each October 1 thereafter, to the nearest \$5 increment to reflect such changes for the twelve months ending the preceding June 30.²⁸ All households with earned income shall be allowed an additional deduction of 18 per centum²⁹ of all earned income (other than that excluded by subsection (d)) of this section), to compensate for taxes, other mandatory deductions from salary, and work expenses. Households, other than those households containing a member who is sixty years of age or over or who receives supplemental security income benefits under title XVI of the Social Security Act or disability and blindness payments under titles I, II, X, XIV of the Social Security Act,³⁰ shall also be entitled, with respect to expenses other than expenses paid on behalf of the household by a third party,³¹ to (1) a dependent care deduction, the maximum allowable level of which shall be the same as that for the excess shelter expense deduction contained in clause (2) of this subsection, for the actual cost of payments necessary for the care of a dependent, regardless of the dependent's age, when such care enables a household member to accept or continue employment, or training or education that is preparatory for employment,³² or (2) an excess shelter expense deduction to the extent that the monthly amount expended by a household for shelter exceeds an amount equal to 50 per centum of monthly household income after all other applicable deductions have been allowed: *Provided*, That the amount of such excess shelter expense deduction shall not exceed \$115 a month in the forty-eight contiguous States and the District of Columbia, and shall not exceed, in Alaska, Hawaii, Guam, Puerto Rico,* and the Virgin Islands of the United States, \$200, \$165, \$140, \$40*** and \$85, respectively, adjusted (i) on July 1, 1983, to the nearest \$5 increment to reflect changes in the shelter (exclusive of homeownership costs), fuel, and utilities components of housing costs in the Consumer Price Index for all urban consum-

***"\$40" will be deleted July 1, when the block grant provision of section 19 is effective. See Public Law 97-35, section 116(a)(2), 95 Stat. 364, Aug. 1981.

²⁸ Amended by Public Law 97-35, section 105(2), 95 Stat. 359, Aug. 13, 1981, to strike the second sentence and substitute the new sentence reflected above.

²⁹ Amended by Public Law 97-35, section 106, 95 Stat. 360, Aug. 13, 1981, to strike "20 per centum" and substitute "18 per centum".

³⁰ Amended by Public Law 96-58, section 2(1) 93 Stat. 390, Aug. 14, 1979, to include the provision referring to households with a member 60 years of age or older or receiving supplemental security income benefits or receiving disability payments. (See fn. 20 for implementation instructions). Effective October 1, 1981, further amended by Public Law 96-249, section 106, 94 Stat. 358, May 26, 1980, to add "and blindness" after the word "disability", and to add reference to sections I, X, XIV and XVI of the Social Security Act with respect to disability and blindness payments.

³¹ Amended by Public Law 97-98, section 1307, 95 Stat. 1203, Dec. 22, 1981, to add following the word, "entitled", with respect to expenses other than expenses paid on behalf of the household by a third party.

³² Amended by Public Law 96-249, section 104(1), 94 Stat. 358, May 26, 1980, to set maximum allowable dependent care level at \$90 per month per household effective Oct. 1, 1981. Further amended by Public Law 97-35, section 115, 95 Stat. 364, Aug. 13, 1981, to repeal section 104 of Public Law 96-249.

ers published by the Bureau of Labor Statistics, as appropriately adjusted by the Bureau of Labor Statistics after consultation with the Secretary, for the fifteen months ending the preceding March 31, (ii) on October 1, 1984, to the nearest \$5 increment to reflect such changes for the fifteen months ending the preceding June 30, and (iii) on October 1, 1985, and each October 1, thereafter, to the nearest \$5 increment to reflect such changes for the twelve months ending the preceding June 30,³³ or (3) a deduction combining the dependent care and excess shelter expense deductions under clauses (1) and (2) of this subsection, the maximum allowable level of which shall not exceed the maximum allowable deduction under clause (2) of this subsection.³⁴ Households containing a member who is sixty years of age or over or who receives supplemental security income benefits under title XVI of the Social Security Act or disability and blindness payments under titles I, II, X, XIV, and XVI of the Social Security Act shall also be entitled, with respect to expenses other than expenses paid on behalf of the household by a third party,³⁵ to—

(A) an excess medical expense deduction for that portion of the actual cost of allowable medical expenses, incurred by household members who are sixty years of age or over or who receive supplemental security income benefits under title XVI of the Social Security Act, or disability and blindness payments under titles I, II, X, XIV, and XVI of the Social Security Act, exclusive of special diets, that exceed \$35 a month;

(B) a dependent care deduction, the maximum allowable level of which shall be the same as that for the excess shelter expenses deduction contained in clause (2) of the preceding sentence, for the actual cost of payments necessary for the care of a dependent, regardless of the dependent's age, when such care enables a household member to accept or continue employment, or training or education that is preparatory for employment; and

(C) an excess shelter expense deduction to the extent that the monthly amount expended by a household for shelter exceeds an amount equal to 50 per centum of monthly household income after all other applicable deductions have been allowed.³⁶

(f)(1)(A) Household income for those households that, by contract for other than an hourly or piecework basis or by self-employment, derive their annual income in a period of time shorter than one year shall be calculated by averaging such income over a twelve-month period.

³³ Amended by Public Law 97-35, section 105(3), 95 Stat. 359, Aug. 13, 1981, to strike the proviso in clause (2) of the fourth sentence and substitute the new proviso.

³⁴ Amended by Public Law 96-249, section 136(4), 94 Stat. 369, May. 26, 1980, to reflect procedure for adjusting excess shelter expense deduction starting Jan. 1, 1981.

³⁵ Amended by Public Law 97-98, section 1307, 97 Stat. 1283, Dec. 22, 1981, to add the following language after the word, "entitled", "with respect to expenses other than expenses paid on behalf of the household by a third party,".

³⁶ Amended by Public Law 96-58, section 2, 93 Stat. 390, Aug. 14, 1979, to add the last sentence of subsection 5(e). (See fn. 20 for implementation instructions). The last sentence was further amended by section 104(3), section 105 and section 106 of Public Law 96-249, 94 Stat. 358, May 26, 1980, to be effective October 4, 1981, to delete in clause (B) the reference to clause (2) of the prior sentence, and insert a reference to clause (1) of the prior sentence; to add "or their spouses" and change "\$35" to "\$25"; to add "and blindness" after "disability" in clause (A); and to add references to titles I, X, XIV, and XVI along with title II. Further amended by Public Law 97-35, section 115, 95 Stat. 364, Aug. 13, 1981, to repeal sections 104 and 105 of Public Law 96-249.

(B) Household income for those households that receive nonexcluded income of the type described in subsection (d)(3) of this section shall be calculated by averaging such income over the period for which it is received.

(2)(A) Household income for migrant farmworker households shall be calculated on a prospective basis, as provided in paragraph (3)(A).

(B) Household income for all other households shall be calculated either on a prospective basis as provided in paragraph (3)(A) or on a retrospective basis as provided in paragraph (3)(B), as elected by the State agency under regulations prescribed by the Secretary.³⁷

(3)(A) Calculation of household income on a prospective basis is the calculation of income on the basis of the income reasonably anticipated to be received by the household during the period for which eligibility or benefits are being determined. Such calculation shall be made in accordance with regulations prescribed by the Secretary which shall provide for taking into account both the income reasonably anticipated to be received by the household during the period for which eligibility or benefits are being determined and the income received by the household during the preceding thirty days.

(B) Calculation of household income on a retrospective basis is the calculation of income for the period for which eligibility or benefits are being determined on the basis of income received in a previous period. Such calculation shall be made in accordance with regulations prescribed by the Secretary which may provide for the determination of eligibility on a prospective basis in some or all cases in which benefits are calculated under this paragraph. Such regulations shall provide for supplementing the initial allotments of newly applying households in those cases in which the determination of income under this paragraph causes serious hardship.

(4) In promulgating regulations under this subsection, the Secretary shall consult with the Secretary of Health and Human Services in order to assure that, to the extent feasible and consistent with the purposes of this Act and the Social Security Act, the income of households receiving benefits under this Act and title IV-A of the Social Security Act is calculated on a comparable basis under the two Acts. The Secretary is authorized, upon the request of a State agency, to waive any of the provisions of this subsection to the extent necessary to permit the State agency to calculate income for purposes of this Act on the same basis that income is calculated under title IV-A of the Social Security Act in that State.³⁸

(g) The Secretary shall prescribe the types and allowable amounts of financial resources (liquid and nonliquid assets) an eligible household may own, and shall, in so doing, assure that a household otherwise eligible to participate in the food stamp program will not be eligible to participate if its resources exceed

³⁷ Amended by Public Law 97-35, section 107(b), 95 Stat. 361, Aug. 13, 1981, so that effective October 1, 1983, paragraph (2)(B) of section 5(f) of the Food Stamp Act of 1977, as amended by P.L. 97-35 section 107(a), is amended to read as follows: "(B) Household income for all other households shall be calculated on a retrospective basis as provided in paragraph (3)(B)."

³⁸ Amended by Public Law 97-35, section 107(a), 95 Stat. 360, Aug. 13, 1981, to strike the language of section 5(f) and replace it with the language indicated.

\$1,500,³⁹ or, in the case of a household consisting of two or more persons, one of who is age 60 or over, if its resources exceed \$3,000. The Secretary shall, in prescribing inclusions in, and exclusions from, financial resources, follow the regulations in force as of June 1, 1977 (other than those relating to licensed vehicles),⁴⁰ and shall, in addition, (1) include in financial resources any boat, snowmobiles, and airplanes used for recreational purposes, any vacation homes, any mobile homes used primarily for vacation purposes, and any licensed vehicle (other than one used to produce earned income or that is necessary for transportation of a physically disabled household member)⁴¹ used for household transportation or used to obtain or continue employment⁴² to the extent that the fair market value of any such vehicle exceeds \$4,500, and (2) study and develop means of improving the effectiveness of these resources requirements in limiting participation to households in need of food assistance, and implement and report the results of such study and the Secretary's plans to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate no later than June 1, 1978.

(h)(1) The Secretary shall, after consultation with the official empowered to exercise the authority provided for by section 302(a) of the Disaster Relief Act of 1974, establish temporary emergency standards of eligibility for the duration of the emergency for households who are victims of a disaster which disrupts commercial channels of food distribution, if such households are in need of temporary food assistance and if commercial channels of food distribution have again become available to meet the temporary food needs of such households. Such standards as are prescribed for individual emergencies may be promulgated without regard to section 4(c) of this Act or the procedures set forth in section 553 of title 5 of the United States Code.

(2) The Secretary shall establish a Food Stamp Disaster Task Force, to assist States in implementing and operating the disaster program, which shall be available to go into a disaster area and provide direct assistance to State and local officials. (7 U.S.C. 2014).

(i)(1) For purposes of determining eligibility for and the amount of benefits under this Act for an individual who is an alien as described in section 6(f)(2)(B) of this Act, the income and resources of any person who as a sponsor of such individual's entry into the United States executed an affidavit of support or similar agreement with respect to such individual, and the income and resources of the sponsor's spouse if such spouse is living with the sponsor, shall be deemed to be the income and resources of such individual for a period of three years after the individual's entry into the United States. Any such income deemed to be income of such individual shall be treated as unearned income of such individual.

³⁹ Amended by Public Law 96-249, section 138, 94 Stat. 370, May 26, 1980, to reflect a reduction in the assets limitation to \$1,500.

⁴⁰ Amended by Public Law 97-98, section 1309, 95 Stat. 1284, Dec. 22, 1981, to add the phrase, "(other than those relating to licensed vehicles)".

⁴¹ Amended by Public Law 96-249, section 108(1), 94 Stat. 359, May 26, 1980, to add the clause "or that is necessary for transportation of a physically disabled household member".

⁴² Amended by Public Law 96-249, section 108(2), 94 Stat. 359, May 26, 1980, to delete the words "or to transport disabled household members".

(2)(A) The amount of income of a sponsor, and the sponsor's spouse if living with the sponsor, which shall be deemed to be the unearned income of an alien for any year shall be determined as follows:

(i) the total yearly rate of earned and unearned income of such sponsor, and such sponsor's spouse if such spouse is living with the sponsor, shall be determined for such year under rules prescribed by the Secretary;

(ii) the amount determined under clause (i) of this subparagraph shall be reduced by an amount equal to the income eligibility standard as determined under section 5(c) of this Act for a household equal in size to the sponsor, the sponsor's spouse if living with the sponsor, and any persons dependent upon or receiving support from the sponsor or the sponsor's spouse if the spouse is living with the sponsor; and

(iii) the monthly income attributed to such alien shall be one-twelfth of the amount calculated under clause (ii) of this subparagraph.

(B) The amount of resources of a sponsor, and the sponsor's spouse if living with the sponsor, which shall be deemed to be the resources of an alien for any year shall be determined as follows:

(i) the total amount of the resources of such sponsor and such sponsor's spouse if such spouse is living with the sponsor shall be determined under rules prescribed by the Secretary;

(ii) the amount determined under clause (1) of this subparagraph shall be reduced by \$1,500; and

(iii) the resources determined under clause (ii) of this subparagraph shall be deemed to be resources of such alien in addition to any resources of such alien.

(C)(i) Any individual who is an alien shall, during the period of three years after entry into the United States, in order to be an eligible individual or eligible spouse for purposes of this Act, be required to provide to the State agency such information and documentation with respect to the alien's sponsor and sponsor's spouse as may be necessary in order for the State agency to make any determination required under this section, and to obtain any cooperation from such sponsor necessary for any such determination. Such alien shall also be required to provide such information and documentation which such alien or the sponsor provided in support of such alien's immigration application as the State agency may request.

(ii) The Secretary shall enter into agreements with the Secretary of State and the Attorney General whereby any information available to such persons and required in order to make any determination under this section will be provided by such persons to the Secretary, and whereby such persons shall inform any sponsor of an alien, at the time such sponsor executes an affidavit of support or similar agreement, of the requirements imposed by this section.

(D) Any sponsor of an alien, and such alien, shall be jointly and severally liable for an amount equal to any overpayment made to such alien during the period of three years after such alien's entry into the United States, on account of such sponsor's failure to provide correct information under the provisions of this section, except where such sponsor was without fault, or where good cause for

such failure existed. Any such overpayment which is not repaid shall be recovered in accordance with the provisions of section 13(b)(2) of this Act.

(E) The provisions of this subsection shall not apply with respect to any alien who is a member of the sponsor's household, as defined in section 3(i) of this Act.⁴³ (7 U.S.C. 2014.)

ELIGIBILITY DISQUALIFICATIONS

SEC. 6. (a) In addition to meeting the standards of eligibility prescribed in section 5 of this Act, households and individuals who are members of eligible households must also meet and comply with the specific requirements of this section to be eligible for participation in the food stamp program.

(b)(1) Any person who has been found by any State or Federal court or administrative agency to have intentionally (A) made a false or misleading statement, or misrepresented, concealed or withheld facts, or (B) committed any act that constitutes a violation of this Act, the regulations issued thereunder, or any State statute, for the purpose of using, presenting, transferring, acquiring, receiving, or possessing coupons or authorization cards shall, immediately upon the rendering of such determination, become ineligible for further participation in the program—

(i) for a period of six months upon the first occasion of any such determination;

(ii) for a period of one year upon the second occasion of any such determination; and

(iii) permanently upon the third occasion of any such determination.

During the period of such ineligibility no household shall receive increased benefits under this Act as the result of a member of such household having been disqualified under this subsection.

(2) Each State agency shall proceed against an individual alleged to have engaged in such activity either by way of administrative hearings, after notice and an opportunity for a hearing at the State level, or by referring such matters to appropriate authorities for civil or criminal action in a court of law.

(3) Such periods of ineligibility as are provided for in paragraph (1) of this subsection shall remain in effect, without possibility of administrative stay, unless and until the findings upon which the ineligibility is based is subsequently reversed by a court of appropriate jurisdiction, but in no event shall the period of ineligibility be subject to review.

(4) The Secretary shall prescribe such regulations as the Secretary may deem appropriate to ensure that information concerning any such determination with respect to a specific individual is forwarded to the Office of the Secretary by any appropriate State or Federal entity for the use of the Secretary in administering the provisions of this section. No State shall withhold such information from the Secretary or the Secretary's designee for any reason whatsoever.⁴⁴

⁴³ Amended by Public Law 97-98, section 1308, 95 Stat. 1283, Dec. 22, 1981, to add new subsection (i).

⁴⁴ Amended by Public Law 97-35, section 112, 95 Stat. 362, Aug. 13, 1981, to make subsection 6(b) read as indicated.

(c) No household shall be eligible to participate in the food stamp program if it refuses to cooperate in providing information to the State agency that is necessary for making a determination of its eligibility or for completing any subsequent review of its eligibility.

(1) State agencies that elect to use a system of retrospective accounting in accordance with section 5(f)⁴⁵ of this Act shall require certain categories of households, including all households with earned income, except migrant farmworker households, all households with potential earners, including individuals receiving unemployment compensation benefits and individuals required by section 6(d) of this Act to register for work, and all households required to file a similar report under title IV-A of the Social Security Act, but not including households that have no earned income and in which all members are sixty years of age or over or receive supplemental security income benefits under title XVI of the Social Security Act or disability and blindness payments under titles I, II, X, XIV, and XVI of the Social Security Act,⁴⁶ to file periodic reports of household circumstances in accordance with standards prescribed by the Secretary. Other State agencies, which have received the approval of the Secretary may also require such categories of households to file periodic reports.⁴⁷ Each household that is not required to file such periodic reports on a monthly basis shall be required to report or cause to be reported to the State agency, on a form designed or approved by the Secretary, changes in income or household circumstances which the Secretary deems necessary in order to assure accurate eligibility and benefit determinations.

(2) Any household required to file a periodic report under paragraph (1) of this subsection shall, (A) if it is eligible to participate and has filed a timely and complete report, receive its allotment, based on the reported information for a given month, within thirty days of the end of that month unless the Secretary determines that a longer period of time is necessary, (B) have available special procedures that permit the filing of the required information in the event all adult members of the household are mentally or physically handicapped or lacking in reading or writing skills to such a degree as to be unable to fill out the required forms, (C) have a reasonable period of time after the close of the month in which to file their reports on forms approved by the Secretary, and (D) be afforded prompt notice of failure to file any report timely or completely, and given a reasonable opportunity to cure that failure (with any applicable time requirements extended accordingly) and to exercise its rights under section 11(e)(10) of this Act.

(3) Reports required to be filed under paragraph (1) of this subsection shall be considered complete if, in accordance with standards prescribed by the Secretary, they contain sufficient information to enable the State agency to determine household eligibility

⁴⁵ Amended by Public Law 97-35, section 108(b)(2), 95 Stat. 361, Aug. 13, 1981 to delete "5(f)(2)" and substitute "5(f)".

⁴⁶ Amended by Public Law 97-35, section 108(b)(1), 95 Stat. 361, Aug. 13, 1981, by inserting after "households" in the first sentence of paragraph (1) the language indicated through "titles I, II, X, XIV, and XVI of the Social Security Act".

⁴⁷ Amended by Public Law 97-35, section 108(c), 95 Stat. 361, Aug. 13, 1981, to remove on October 1, 1983, provisions allowing election of accounting procedures by striking out in the first sentence "that elect to use a system of retrospective accounting in accordance with section 5(f) of this Act"; and striking out the second sentence.

and allotment levels. All report forms, including those related to periodic reports of circumstances, shall contain a description, in understandable terms in prominent and bold face lettering, of the appropriate civil and criminal provisions dealing with violations of this Act including the prescribed penalties. The reporting requirements contained in paragraph (1) of this subsection shall be the sole such requirements for reporting changes in circumstances for participating households. In promulgating regulations implementing these reporting requirements, the Secretary shall consult with the Secretary of Health and Human Services, and, wherever feasible, households that receive assistance under title IV-A of the Social Security Act and that are required to file comparable reports under that Act shall be provided the opportunity to file reports at the same time for purposes of both Acts.⁴⁸

(4) Any household that fails to submit periodic reports required by paragraph (1) shall not receive an allotment for the payment period to which the unsubmitted report applies until such report is submitted.⁴⁹

(d)(1) Unless otherwise exempted by the provisions of paragraph (d)(2) of this subsection, no household shall be eligible for assistance under this Act if it includes a physically and mentally fit person between the ages of eighteen and sixty who (i) refuses at the time of application and once every twelve⁵⁰ months thereafter to register for employment in a manner determined by the Secretary; (ii) refuses to fulfill whatever reasonable reporting and inquiry about employment requirements as are prescribed by the Secretary; (ii) is head of the household and voluntarily quits any job without good cause: *Provided*, That the period of ineligibility shall be sixty days from the time of the voluntary quit; or (iv) refuses without good cause (including the lack of adequate child care for children above the age of five and under the age of twelve⁵¹ to accept an offer of employment at a wage not less than the higher of either the applicable State or Federal minimum wage, or 80 per centum of the wage that would have governed had the minimum hourly rate under the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 206(a)(1)), been applicable to the offer of employment, at a site or plant not then subject to a strike or lockout

(2) A person who otherwise would be required to comply with the requirements of paragraph (1) of this subsection shall be exempt from such requirement if he or she is (A) currently subject to and complying with a work registration requirement under title IV of the Social Security Act, as amended (42 U.S.C. 602), or the Federal State unemployment compensation system in which case, failure by such person to comply with any work requirement to which such person is subject that is comparable to a requirement of paragraph

⁴⁸ Amended by Public Law 96-249, section 110, 94 Stat. 359-360, May 26, 1980, to delete everything after the first sentence and add subsections (1), (2), and (3).

⁴⁹ Amended by Public Law 97-35, section 108(b)(3), 95 Stat. 361, Aug. 13, 1981, to add new paragraph (4).

⁵⁰ Amended by Public Law 97-98, section 1310, 95 Stat. 1284, Dec. 22, 1981, to strike the word "six" and substitute the word "twelve".

⁵¹ Amended by Public Law 97-98, section 1311, 95 Stat. 1285, Dec. 22, 1981, to strike out "unless the household was certified for benefits under this Act immediately prior to such unemployment" in clause (iii) of paragraph (1); and insert "(including the lack of adequate child care for children above the age of five and under the age of twelve)" after "good cause" in clause (iv) of paragraph (1).

(1) shall be the same as failure to comply with that requirement of paragraph (1); ⁵² (B) a parent or other member of a household with responsibility for the care of a dependent child under age six ⁵³ or of an incapacitated person; (C) a parent or other caretaker of a child in a household where there is another able-bodied parent who is subject to the requirements of this subsection; (D) a bona fide student enrolled at least half time in any recognized school, training program, or institution of higher education (except that any such person enrolled in an institution of higher education shall be ineligible to participate in the food stamp program unless he or she meets the requirements of subsection (e) of this section); ⁵⁴ (E) a regular participant in a drug addiction or alcoholic treatment and rehabilitation program; or (F) employed a minimum of thirty hours per week or receiving weekly earnings which equal the minimum hourly rate under the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 206(a)(1)), multiplied by thirty hours.

(3) To the extent that a State employment service is assigned responsibility for administering the provisions of subsection (d) of this section, it shall comply with regulations issued jointly by the Secretary and the Secretary of Labor, which regulations shall be patterned to the maximum extent practicable on the work incentive program requirements set forth in title IV of the Social Security Act (42 U.S.C. 630 *et seq.*) and shall take into account the diversity of the needs of the food stamp work registration population.

(4) ⁵⁵ Notwithstanding any other provision of law, a household shall not participate in the food stamp program at any time that any member of such household, not exempt from the work registration requirements of paragraph (1) of this subsection, is on strike as defined in section 501(2) of the Labor Management Relations Act, 1947, because of a labor dispute (other than a lockout) as defined in section 2(9) of the National Labor Relations Act: *Provided*, That a household shall not lose its eligibility to participate in the food stamp program as a result of one of its members going on strike if the household was eligible for food stamps immediately prior to such strike; however, such household shall not receive an increased allotment as the result of a decrease in the income of the striking member or members of the household: ⁵⁶ *Provided further*, That such ineligibility shall not apply to any household that does not contain a member on strike, if any of its members refuses to accept employment at a plant or site because of a strike or lockout.

⁵² Amended by Public Law 97-98, section 1311, 95 Stat. 1285, Dec. 22, 1981, to insert before the semicolon at the end of clause (A) of paragraph (2) "in which case, failure by such person to comply with any work requirement to which such person is subject that is comparable to a requirement of paragraph (1) shall be the same as failure to comply with that requirement of paragraph (1)".

⁵³ Amended by Public Law 97-98, section 1311, 95 Stat. 1285, Dec. 22, 1981, to substitute "six" for "twelve".

⁵⁴ Amended by Public Law 96-249, section 140, 94 Stat. 370, May 26, 1980, to require persons enrolled in higher education institutions to meet the requirements of subsection (e).

⁵⁵ Amended by Public Law 96-249, section 114, 94 Stat. 361, May 26, 1980, to add subsection (4).

⁵⁶ Amended by Public Law 97-35, section 105(a), 95 Stat. 361, Aug. 13, 1981, to insert before the colon at the end of the first proviso the following: "however, such household shall not receive an increased allotment as the result of a decrease in the income of the striking member or members of the household"; and to insert a period in lieu of the colon at the end of the second proviso; and to strike out the third proviso; and to repeal section 6(i).

(e) No individual who is a member of a household otherwise eligible to participate in the food stamp program under this section shall be eligible to participate in the food stamp program as a member of that or any other household if he or she (1) is physically and mentally fit and is between the ages of eighteen and sixty, (2) is enrolled at least half time in an institution of higher education, and (3)(A) is not employed a minimum of twenty hours per week or does not participate in a federally financed work study program during the regular school year, or (B) is not the head of a household (or spouse of such head) containing one or more other persons who are dependents of that individual because he or she supplies more than half of their support, or (C) is not so enrolled as a result of participation in the work incentive program under title IV of the Social Security Act, as amended (42 U.S.C 602).⁵⁷

(f) No individual who is a member of a household otherwise eligible to participate in the food stamp program under this section shall be eligible to participate in the food stamp program as a member of that or any other household unless he or she is (1) a resident of the United States and (2) either (A) a citizen or (B) an alien lawfully admitted for permanent residence as an immigrant as defined by sections 101(a)(15) and 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15) and 8 U.S.C. 1101(a)(20)), excluding, among others, alien visitors, tourists, diplomats, and students who enter the United States temporarily with no intention of abandoning their residence in a foreign country; or (C) an alien who entered the United States prior to June 30, 1948, or such subsequent date as is enacted by law, has continuously maintained his or her residence in the United States since then, and is not ineligible for citizenship, but who is deemed to be lawfully admitted for permanent residence as a result of an exercise of discretion by the Attorney General pursuant to section 249 of the Immigration and Nationality Act (8 U.S.C. 1259); or (D) an alien who has qualified for conditional entry pursuant to section 203(a)(7) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(7)) because of persecution or fear of persecution on account of race, religion, or political opinion or because of being uprooted by catastrophic natural calamity; or (E) an alien who is lawfully present in the United States as a result of an exercise of discretion by the Attorney General for emergent reasons or reasons deemed strictly in the public interest pursuant to section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)); or (F) an alien within the United States as to whom the Attorney General has withheld deportation pursuant to section 243 of the Immigration and Nationality Act (8 U.S.C. 1253(h)) because of the judgment of the Attorney General that the alien would otherwise be subject to persecution on account of race, religion, or political opinion. No aliens other than the ones specifically described in clauses (B) through (F) of this subsection shall be eligible to participate in the food stamp program as a member of any household. The income (less a pro rata share) and financial resources of the individual rendered ineligible to participate in the food stamp program under this subsection shall be considered in

⁵⁷ Amended by Public Law 96-249, section 139, 94 Stat. 370, May 26, 1980, to replace everything following "(1)" with the language reflected above.

determining the eligibility and the value of the allotment of the household of which such individual is a member.⁵⁸

(g) No individual who receives supplemental security income benefits under title XVI of the Social Security Act, State supplementary payments described in section 1616 of such Act, or payments of the type referred to in section 212(a) of Public Law 93-66, as amended, shall be considered to be a member of a household for any month, if, for such month, such individual resided in a State which provides State supplementary payments (1) of the type described in section 1616(a) of the Social Security Act and section 212(a) of Public Law 93-66, and (2) the level of which has been found by the Secretary of Health, Education, and Welfare* to have been specifically increased so as to include the bonus value of food stamps.

(h) No household that knowingly transfers assets for the purpose of qualifying or attempting to qualify for the food stamp program shall be eligible to participate in the program for a period of up to one year from the date of discovery of the transfer.

ISSUANCE AND USE OF COUPONS

SEC. 7. (a) Coupons shall be printed under such arrangements and in such denominations as may be determined by the Secretary to be necessary, and shall be issued only to households which have been duly certified as eligible to participate in the food stamp program.

(b) Coupons issued to eligible households shall be used by them only to purchase food in retail food stores which have been approved for participation in the food stamp program at prices prevailing in such stores: *Provided*, That nothing in this Act shall be construed as authorizing the Secretary to specify the prices at which food may be sold by wholesale food concerns or retail food stores: *Provided further*, That eligible households using coupons to purchase food may receive cash in change therefor so long as the cash received does not equal or exceed the value of the lowest coupon denomination issued.

(c) Coupons issued to eligible households shall be simple in design and shall include only such words or illustrations as are required to explain their purpose and define their denomination. The name of any public official shall not appear on such coupons.

(d) The Secretary shall develop an appropriate procedure for determining and monitoring the level of coupon inventories in the hands of coupon issuers for the purpose of providing that such inventories are at proper levels (taking into consideration the historical and projected volume of coupon distribution by such issuers). Such procedures shall provide that coupon inventories in the hands of such issuers are not in excess of the reasonable needs of such issuers taking into consideration the ease with which such coupon inventories may be resupplied. The Secretary shall require each

⁵⁸ Amended by Public Law 96-249, section 115, 94 Stat. 361, May 26, 1980, to add the last sentence.

*Section 509(b) of Public Law 96-88, 93 Stat. 695, Oct. 17, 1979, provides that any reference to the Secretary of Health, Education, and Welfare shall be deemed to refer to the Secretary of Health and Human Services.

coupon issuer at intervals prescribed by the Secretary, but not less often than monthly, to send to the Secretary or the Secretary's designee, which may include the State agency, a written report of the issuer's operations during such period. In addition to other information deemed by the Secretary to be appropriate, the Secretary shall require that the report contain an oath, or affirmation, signed by the coupon issuer, or in the case of a corporation or other entity not a natural person, by an appropriate official of the coupon issuer, certifying that the information contained in the report is true and correct to the best of such person's knowledge and belief.

(e) The Secretary shall prescribe appropriate procedures for the delivery of coupons to coupon issuers and for the subsequent controls to be placed over such coupons by coupon issuers in order to ensure adequate accountability.

(f) Notwithstanding any other provision of this Act, the State agency shall be strictly liable to the Secretary for any financial losses involved in the acceptance, storage, and issuance of coupons, including any losses involving failure of a coupon issuer to comply with the requirements specified in section 11(e)(21), except that in the case of losses resulting from the issuance and replacement of authorizations for coupons and allotments which are sent through the mail, the State agency shall be liable to the Secretary to the extent prescribed in the regulations promulgated by the Secretary.⁵⁹ (7 U.S.C. 2016).

VALUE OF ALLOTMENT

SEC. 8. (a) The value of the allotment which State agencies shall be authorized to issue to any households certified as eligible to participate in the food stamp program shall be equal to the cost to such households of the thrifty food plan reduced by an amount equal to 30 per centum of the household's income, as determined in accordance with section 5 (d) and (e)⁶⁰ of this Act, rounded to the nearest whole dollar: *Provided*, That for households of one and two persons the minimum allotment shall be \$10 per month. The Secretary shall, six months after the implementation of the elimination of the charge for allotments and annually thereafter, report to Congress the effect on participation and cost of this elimination.

(b) The value of the allotment provided any eligible household shall not be considered income or resources for any purpose under any Federal, State, or local laws, including, but not limited to, laws relating to taxation, welfare, and public assistance programs, and no participating State or political subdivision thereof shall decrease any assistance otherwise provided an individual or individuals because of the receipt of an allotment under this Act. (7 U.S.C. 2017).

(c) The value of the allotment issued to any eligible household for the initial month or other initial period for which an allotment is issued shall have a value which bears the same ratio to the value of the allotment for the full month or other initial period for which the allotment is issued as the number of days (from the date of ap-

⁵⁹ Amended by Public Law 97-98, section 1312, 95 Stat. 1285, Dec. 22, 1981, to read as indicated, thereby establishing strict liability in the State agency for specified financial losses.

⁶⁰ Amended by Public Law 97-35, section 104(b), 95 Stat. 361 Aug. 13, 1981, to add "(d) and (e)".

plication) remaining in the month or other initial period for which the allotment is issued bears to the total number of days in the month or other initial period for which the allotment is issued. As used in this subsection, the term "initial month" means (1) the first month for which an allotment is issued to a household, and (2) the first month for which an allotment is issued to a household following any period of more than thirty days during which such household was not participating in the food stamp program under this Act after previous participation in such program.⁶¹ (7 U.S.C. 2017).

APPROVAL OF RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS

SEC. 9. (a) Regulations issued pursuant to this Act shall provide for the submission of applications for approval by retail food stores and wholesale food concerns which desire to be authorized to accept and redeem coupons under the food stamp program and for the approval of those applicants whose participation will effectuate the purposes of the food stamp program. In determining the qualifications of applicants, there shall be considered among such other factors as may be appropriate, the following: (1) the nature and extent of the food business conducted by the applicant; (2) the volume of coupon business which may reasonably be expected to be conducted by the applicant food store or wholesale food concern; and (3) the business integrity and reputation of the applicant. Approval of an applicant shall be evidenced by the issuance to such applicant of a nontransferable certificate of approval.

(b) No wholesale food concern may be authorized to accept and redeem coupons unless the Secretary determines that its participation is required for the effective and efficient operation of the food stamp program. In addition, no firm may be authorized to accept and redeem coupons as both a retail food store and as a wholesale food concern at the same time.

(c) Regulations issued pursuant to this Act shall require an applicant retail food store or wholesale food concern to submit information which will permit a determination to be made as to whether such applicant qualifies, or continues to qualify, for approval under the provisions of this Act or the regulations issued pursuant to this Act. Regulations issued pursuant to this Act shall provide for safeguards which limit the use or disclosure of information obtained under the authority granted by this subsection to purposes directly connected with administration and enforcement of the provisions of this Act or the regulations issued pursuant to this Act. Such purposes shall not exclude the audit and examination of such information by the Comptroller General of the United States authorized by any other provision of law.⁶²

(d) Any retail food store or wholesale food concern which has failed upon application to receive approval to participate in the food stamp program may obtain a hearing on such refusal as provided in section 14 of this Act.

⁶¹ Amended by Public Law 97-35, section 110, 95 Stat. 362, Aug. 13, 1981, to add new subsection (c).

⁶² Amended by Public Law 97-98, section 1313, 95 Stat. 1285, Dec. 22, 1981, to add the final sentence.

(e) Approved retail food stores shall display a sign providing information on how persons may report abuses they have observed in the operation of the food stamp program.⁶³ (7 U.S.C. 2018).

REDEMPTION OF COUPONS

SEC. 10. Regulations issued pursuant to this Act shall provide for the redemption of coupons accepted by retail food stores through approved wholesale food concerns or through financial institutions which are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation,⁶⁴ with the cooperation of the Treasury Department, except that retail food stores defined in section 3(k)(4) of this Act shall be authorized to redeem their member's food coupons prior to receipt by the members of the food so purchased, and private nonprofit organizations or institutions which serve meals to narcotics addicts or alcoholics in drug addiction or alcoholic treatment and rehabilitation programs, public and private nonprofit shelters that prepare and serve meals for battered women and children,⁶⁵ and public or private nonprofit group living arrangements that serve meals to disabled or blind residents⁶⁶ shall not be authorized to redeem coupons through financial institutions which are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.⁶⁷ (7 U.S.C. 2019).

ADMINISTRATION

SEC. 11. (a) The State agency of each participating State shall assume responsibility for the certification of applicant households and for the issuance of coupons and the control and accountability thereof. There shall be kept such records as may be necessary to ascertain whether the program is being conducted in compliance with the provisions of this Act and the regulations issued pursuant to this Act. Such records shall be available for inspection and audit at any reasonable time and shall be preserved for such period of time, not less than three years, as may be specified in the regulations issued pursuant to this Act.

(b)⁶⁸.

(c) In the certification of applicant households for the food stamp program, there shall be no discrimination by reason of race, sex, religious creed, national origin, or political beliefs.

(d) The State agency (as defined in section 3(n)(1) of this Act) of each State desiring to participate in the food stamp program shall submit for approval a plan of operation specifying the manner in

⁶³ Amended by Public Law 97-98, section 1314, 95 Stat. 1285, Dec. 22, 1981, to add new subsection (e).

⁶⁴ Amended by Public Law 97-98, section 1315, 95 Stat. 1285, Dec. 22, 1981, to substitute the phrase, "financial institutions which are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation" wherever the term "banks" appeared.

⁶⁵ Amended by Public Law 96-249, section 101(b), 94 Stat. 357, May 26, 1980, to include shelters for battered women and children and to add a comma after "purchased" and to delete a comma after "residents".

⁶⁶ Amended by Public Law 96-58, section 8, 93 Stat. 392, August 14, 1979, to add the clause referring to nonprofit group living arrangements. (See fn. 5 for implementation instructions).

⁶⁷ Public Law 97-98, section 1315, *Supra* note 64.

⁶⁸ Amended by Public Law 97-98, section 1316, 95 Stat. 1286, Dec. 22, 1981, to strike subsection (b).

which such program will be conducted within the State in every political subdivision. In the case of all or part of an Indian reservation, the State agency as defined in section 3(n)(1) of this Act shall be responsible for conducting such program on such reservation unless the Secretary determines that the State agency (as defined in section 3(n)(1) of this Act) is failing, subsequent to the enactment of this Act, properly to administer such program on such reservation in accordance with the purposes of this Act and further determines that the State agency as defined in section 3(n)(2) of this Act is capable of effectively and efficiently conducting such program, in light of the distance of the reservation from State agency-operated certification and issuance centers, the previous experience of such tribal organization in the operation of programs authorized under the Indian Self-Determination Act (25 U.S.C. 450) and similar Acts of Congress, the tribal organization's management and fiscal capabilities, and the adequacy of measures taken by the tribal organization to ensure that there shall be no discrimination in the operation of the program on the basis of race, color, sex, or national origin, in which event such State agency shall be responsible for conducting such program and submitting for approval a plan of operation specifying the manner in which such program will be conducted. The Secretary, upon the request of a tribal organization, shall provide the designees of such organization with appropriate training and technical assistance to enable them to qualify as expeditiously as possible as a State agency pursuant to section 3(n)(2) of this Act. A State agency, as defined in section 3(n)(1) of this Act, before it submits its plan of operation to the Secretary for the administration of the food stamp program on all or part of an Indian reservation, shall consult in good faith with the tribal organization about that portion of the State's plan of operation pertaining to the implementation of the program for members of the tribe, and shall implement the program in a manner that is responsive to the needs of the Indians on the reservation as determined by ongoing consultation with the tribal organization.

(e) The State plan of operation required under subsection (d) of this section shall provide, among such other provisions as may be required by regulation—

(1) that the State agency shall (A) not conduct food stamp outreach activities with funds provided under this Act;⁶⁹ and (B) use appropriate bilingual personnel and printed material in the administration of the program in those portions of political subdivisions in the State in which a substantial number of members of low-income households speak a language other than English;

(2) that each household which contacts a food stamp office in person during office hours to make what may reasonably be interpreted as an oral or written request for food stamp assistance shall receive and shall be permitted to file, on the same day that such contact is first made, a simplified, uniform national application form for participation in the food stamp pro-

⁶⁹ Amended by Public Law 97-35, section 111(a), 95 Stat. 362, Aug. 13, 1981, to strike out clauses (A) and (B) and redesignate existing clause (C) as (B) and insert the following new clause (A): "(A) not conduct food stamp outreach activities with funds provided under this Act;"

gram designed by the Secretary, unless the Secretary approves a deviation from that form by a particular State agency because of the use by that agency of a dual public assistance food stamp application form pursuant to subsection (i) of this section, the requirements of an agency's computer system, or other exigencies as determined by the Secretary. Each application form shall contain a description in understandable terms in prominent and boldface lettering of the appropriate civil and criminal provisions dealing with violations of this Act, including the penalties therefor, by members of an eligible household. Each application shall also contain in understandable terms and in prominent and boldface lettering a statement that the information provided by the applicant in connection with the application for a coupon allotment will be subject to verification by Federal, State, and local officials to determine if such information is factual and that if any material part of such information is incorrect, food stamps may be denied to the applicant, and that the applicant may be subjected to criminal prosecution for knowingly providing incorrect information.⁷⁰ The State agency shall comply with the standards established by the Secretary for points and hours of certification, and for telephone contact by, mail delivery of forms to and mail return of forms by, and subsequent home or telephone interview with, the elderly, physically or mentally handicapped, and persons otherwise unable, solely because of transportation difficulties and similar hardships, to appear in person at a certification office or through a representative pursuant to paragraph (7) of this subsection, so that such persons may have an adequate opportunity to be certified properly;

(3) that the State agency shall thereafter promptly determine the eligibility of each applicant household by way of verification only of income other than that determined to be excluded by section 5(d) of this Act (in part through the use of the information, if any, obtained under subsections (h) and (i) of section 16 of this Act)⁷¹ and such other eligibility factors as the Secretary determines to be necessary to implement sections 5 and 6 of this Act, although the State agency may verify prior to certification, whether questionable or not, the size of any applicant household and any factors of eligibility involving households that fall within the State agency's error-prone household profiles as developed by the State agency from the quality control program conducted under section 16 of this Act and as approved by the Secretary,⁷² so as to complete certification of and provide an allotment retroactive to the period of application to any eligible household not later than thirty days following its filing of an application;

(4) that the State agency shall insure that each participating household receive a notice of expiration of its certification

⁷⁰ Amended by Public Law 97-98, section 1317, 95 Stat. 1286, Dec. 22, 1981, to add the sentence indicated.

⁷¹ Amended by Public Law 96-249, section 116(1), 94 Stat. 362, May 26, 1980, to add the parenthetical clause.

⁷² Amended by Public Law 96-249, section 116(2), 94 Stat. 362, May 26, 1980, to add the language following "sections 5 and 6 of this Act" and preceding "so as to complete . . .".

prior to⁷³ the start of the last month of its certification period advising the household⁷⁴ that it must submit a new application in order to renew its eligibility for a new certification period and, further, that each such household which seeks to be certified another time or more times thereafter by filing an application for such recertification no later than fifteen days prior to the day upon which its existing certification period expires shall, if found to be still eligible, receive its allotment no later than one month after the receipt of the last allotment issued to it pursuant to its prior certification, but if such household is found to be ineligible or to be eligible for a smaller allotment during the new certification period it shall not continue to participate and receive benefits on the basis authorized for the preceding certification period even if it makes a timely request for a fair hearing pursuant to paragraph (10) of this subsection: *Provided*, That the timeliness standards for submitting the notice of expiration and filing an application for recertification may be modified by the Secretary in light of sections 5(f)(2) and 6(c) of this Act if administratively necessary.⁷⁵

(5) the specific standards to be used in determining the eligibility of applicant households which shall be in accordance with sections 5 and 6 of this Act and shall include no additional requirements imposed by the State agency;

(6) that (A) the State agency shall undertake the certification of applicant households in accordance with the general procedures prescribed by the Secretary in the regulations issued pursuant to this Act; (B) the State agency personnel utilized in undertaking such certification shall be employed in accordance with the current standards for a Merit System of Personnel Administration or any standards later prescribed by the United States Civil Service Commission pursuant to section 208 of the Intergovernmental Personnel Act of 1970 modifying or superseding such standards relating to the establishment and maintenance of personnel standards on a merit basis; and (C) the State agency shall undertake to provide a continuing, comprehensive program of training for all personnel undertaking such certification;

(7) that any applicant household may be represented in the certification process and that any eligible household may be represented in coupon issuance or food purchase by a person other than a member of the household so long as that person has been clearly designated as the representative of that household for that purpose, by the head of the household or the spouse of the head, and, where the certification process is concerned, the representative is an adult who is sufficiently aware of relevant household circumstances;

(8) safeguards which limit the use or disclosure of information obtained from applicant households to persons directly

⁷³ Amended by Public Law 97-98, section 1318, 95 Stat. 1286, Dec. 22, 1981, to insert "prior to" in lieu of "immediately prior to or at".

⁷⁴ Amended by Public Law 97-98, section 1318, 95 Stat. 1286, Dec. 22, 1981, to insert the phrase "the household" in lieu of the word "it".

⁷⁵ Amended by Public Law 96-249, section 113, 94 Stat. 361, May 26, 1980, to add the proviso.

connected with the administration or enforcement of the provisions of this Act or the regulations issued pursuant to this Act, except that (A) such safeguards shall not prevent the use or disclosure of such information to the Comptroller General of the United States for audit and examination authorized by any other provision of law, and (B) notwithstanding any other provision of law, all information obtained under this Act from an applicant household shall be made available, upon request, to local, State or Federal law enforcement officials for the purpose of investigating an alleged violation of this Act or any regulation issued under this Act;⁷⁶

(9) that households in immediate need because of no income as defined in sections 5 (d) and (e) of this Act receive coupons on an expedited basis;

(10) for the granting of a fair hearing and a prompt determination thereafter to any household aggrieved by the action of the State agency under any provision of its plan of operation as it affects the participation of such household in the food stamp program or by a claim against the household for an overissuance: *Provided*, That any household which timely requests such a fair hearing after receiving individual notice of agency action reducing or terminating its benefits within the household's certification period shall continue to participate and receive benefits on the basis authorized immediately prior to the notice of adverse action until such time as the fair hearing is completed and an adverse decision rendered or until such time as the household's certification period terminates, whichever occurs earlier;

(11) upon receipt of a request from a household, for the prompt restoration in the form of coupons to a household of any allotment or portion thereof which has been wrongfully denied or terminated, except that allotments shall not be restored for any period of time more than one year prior to the date the State agency receives a request for such restoration from a household or the State agency is notified or otherwise discovers that a loss to a household has occurred;⁷⁷

(12) for the submission of such reports and other information as from time to time may be required by the Secretary;

(13) for compliance with standards set by the Secretary with respect to points and hours of coupon issuance;

(14) for indicators of expected performance in the administration of the program;

(15) that the State agency shall prominently display in all food stamp and public assistance offices posters prepared or obtained by the Secretary describing the information contained in subparagraphs (A) through (D) of this paragraph and shall make available in such offices for home use pamphlets prepared or obtained by the Secretary listing (A) foods that contain substantial amounts of recommended daily allowances of

⁷⁶ Amended by Public Law 97-98, section 1319, 95 Stat. 1286, Dec. 22, 1981, to add the language beginning with "except that . . ." and continuing, as indicated to the semicolon.

⁷⁷ Amended by Public Law 97-98, section 1320(a), 95 Stat. 1286, Dec. 22, 1981, to make subsection 11(e)(11) read as indicated.

vitamins, minerals, and protein for children and adults; (B) menus that combine such foods into meals; (C) details on eligibility for other programs administered by the Secretary that provide nutrition benefits; and (D) general information on the relationship between health and diet;

(16) that the State agency shall specify a plan of operation for providing food stamps for households that are victims of a disaster; that such plan shall include, but not be limited to, procedures for informing the public about the disaster program and how to apply for its benefits, coordination with Federal and private disaster relief agencies and local government officials, application procedures to reduce hardship and inconvenience and deter fraud, and instruction of caseworkers in procedures for implementing and operating the disaster program;

(17) that the State agency shall require each household certified as eligible to participate by methods other than the out-of-office methods specified in the last sentence of paragraph (2) of this subsection in those project areas or parts of project areas in which the Secretary, in consultation with the Department's Inspector General, finds that it would be useful to protect the program's integrity, to present a photographic identification card when using its authorization card in order to receive its coupons;

(18) notwithstanding paragraph (8) of this subsection, for the immediate reporting to the Immigration and Naturalization Service by the State agency of a determination by personnel responsible for the certification or recertification of households that any member of a household is ineligible to receive food stamps because that member is present in the United States in violation of the Immigration and Nationality Act;⁷⁸

(19) at the option of the State agency, for the establishment and operation of an automatic data processing and information retrieval system that meets such conditions as the Secretary may prescribe and that is designed to provide efficient and effective administration of the food stamp program;⁷⁹

(20) that information available from the Social Security Administration under the provisions of section 6103(i)(7) of the Internal Revenue Code of 1954, and information available from agencies administering State unemployment compensation laws under the provisions of section 303(d) of the Social Security Act, shall be requested and utilized by the State agency (described in section 3(n)(1) of this Act) to the extent permitted under the provisions of such sections, except that the State agency shall not be required to request such information from the Social Security Administration if such information is available from the agency administering the State unemployment compensation laws; and

(21) that, in project areas or parts thereof where authorization cards are used, and eligible households are required to

⁷⁸ Amended by Public Law 97-98, section 1321(1), 95 Stat. 1287, Dec. 22, 1981, to strike the word "and".

⁷⁹ Amended by Public Law 96-249, sections 117, 118 and 119, 94 Stat. 362, May 26, 1980, to include subsections 17, 18, and 19, and by Public Law 97-98, section 1321(2), 95 Stat. 1286, Dec. 22, 1981, to strike the period at the end of subsection 19 and substitute a semicolon.

present photographic identification cards in order to receive their coupons, the State agency shall include, in any agreement or contract with a coupon issuer, a provision that (A) the issuer shall (i) require the presenter to furnish a photographic identification card at the time the authorization card is presented, and (ii) record on the authorization card the identification number shown on the photographic identification card; and (B) if the State agency determines that the authorization card has been stolen or otherwise was not received by a household certified as eligible, the issuer shall be liable to the State agency for the face value of any coupons issued in the transaction in which such card is used and the issuer fails to comply with the requirements of clause (A) of this paragraph.⁸⁰

(f) To encourage the purchase of nutritious foods, the Secretary is authorized to extend food and nutrition education to reach food stamp program participants, using the methods and techniques developed in the expanded food and nutrition education and other programs.⁸¹

(g) If the Secretary determines, upon information received by the Secretary, investigation initiated by the Secretary, or investigation that the Secretary shall initiate upon receiving sufficient information evidencing a pattern of lack of compliance by a State agency of a type specified in this subsection,⁸² that in the administration of the food stamp program there is a failure by a State agency without good cause⁸³ to comply with any of the provisions of this Act, the regulations issued pursuant to this Act, the State plan of operation submitted pursuant to subsection (d) of this section, or the Secretary's standards for the efficient and effective administration of the program established under section 16(b)(1) of this Act,⁸⁴ the Secretary shall immediately inform such State agency of such failure and shall allow the State agency a specified period of time for the correction of such failure. If the State agency does not correct such failure within that specified period, the Secretary may refer the matter to the Attorney General with a request that injunctive relief be sought to require compliance forthwith by the State agency and, upon suit by the Attorney General in an appropriate district court of the United States having jurisdiction of the geographic area in which the State agency is located and a showing that noncompliance has occurred, appropriate injunctive relief shall issue, and, whether or not the Secretary refers such matter to the Attorney General, the Secretary shall proceed to withhold from the State such funds authorized under sections 16(a) and 16(c) of

⁸⁰ Amended by Public Law 97-98, section 1321(3), 95 Stat. 1287, Dec. 22, 1981, to add new paragraphs (20) and (21) to subsection 11(e).

⁸¹ Amended by Public Law 97-98, section 1322, 95 Stat. 1287, Dec. 22, 1981, to make subsection (f) read as indicated.

⁸² Amended by Public Law 96-249, section 120(1), 94 Stat. 362-363, May 26, 1980, to reflect what factors the Secretary may rely on in reaching a determination of State agency noncompliance.

⁸³ Amended by Public Law 96-249, section 120(2), 94 Stat. 363, May 26, 1980, to add the words "without good cause."

⁸⁴ Amended by Public Law 96-249, section 120(4), 94 Stat. 363, May 26, 1980, to add "or the Secretary's standards for the efficient and effective administration of the program established under section 16(b)(1) of this Act".

this Act as the Secretary determines to be appropriate, subject to administrative and judicial review under section 14 of this Act.⁸⁵

(h) If the Secretary determines that there has been negligence or fraud on the part of the State agency in the certification of applicant households, the State shall, upon request of the Secretary, deposit into the Treasury of the United States, a sum equal to the face value of any coupon or coupons issued as a result of such negligence or fraud.

(i) Notwithstanding any other provision of law, the Secretary and the Secretary of Health, Education, and Welfare * shall develop a system by which (1) a single interview shall be conducted to determine eligibility for the food stamp program and the aid to families with dependent children program under part A of title IV of the Social Security Act; (2) households in which all members are recipients of supplemental security income shall be permitted to apply for participation in the food stamp program by executing a simple application⁸⁶ at the social security office and be certified for eligibility utilizing information contained in files of the Social Security Administration; (3) households in which all members are included in a federally aided public assistance or State or local general assistance grant shall have their application for participation in the food stamp program contained in the public assistance or general assistance application form; and (4) new applicants, as well as households which have recently lost or been denied eligibility for public assistance or general assistance, shall be certified for participation in the food stamp program based on information in the public assistance or general assistance case file to the extent that reasonably verified information is available in such case file.

(j) The Secretary, in conjunction with the Secretary of Health, Education, and Welfare,* is authorized to prescribe regulations permitting applicants for and recipients of social security benefits to apply for food stamps at social security offices and be certified for food stamp eligibility in such offices in order that the application and certification for food stamp assistance may be accomplished as efficiently and conveniently as possible.

(k) Subject to the approval of the President, post offices in all or part of the State may issue, upon request by the State agency, food stamps to eligible households.

(l) Whenever the ratio of a State's average food stamp participation in any quarter of a fiscal year to the State's total population in that quarter (estimated on the basis of the latest available population estimates as provided by the Department of Commerce, Bureau of the Census, Series P-25, Current Population Reports (or its successor series)) exceeds 60 per centum, the Office of the Inspector General of the Department of Agriculture shall immediately schedule a financial audit review of a sample of project areas within that State, and shall, upon completion of the audit, provide

⁸⁵ Amended by Public Law 96-249, section 120(5), 94 Stat. 363, May 26, 1980, to add the language beginning "and, whether or not".

⁸⁶ Amended by Public Law 96-249, section 122, 94 Stat. 363, May 26, 1980, to change "simplified affidavit" to "simple application."

*Section 509(b) of Public Law 96-88, 93 Stat. 695, Oct. 17, 1979, provides that any reference to the Secretary of Health, Education, and Welfare shall be deemed to refer to the Secretary of Health and Human Services.

a report to Congress of its findings and recommendations within one hundred and eighty days. Any financial audit review subsequent to the first such review, required under the preceding sentence, shall be conducted at the option of the Office of the Inspector General.⁸⁷

(m) The Secretary shall provide for the use of fee agents in rural Alaska. As used in this subsection "fee agent" means a paid agent who, although not a State employee, is authorized by the State to make applications available to low-income households, assist in the completion of applications, conduct required interviews, secure required verification, forward completed applications and supporting documentation to the State agency, and provide other services as required by the State agency. Such services shall not include making final decisions on household eligibility or benefit levels.⁸⁸ (7 U.S.C. 2020).

CIVIL MONEY PENALTIES AND DISQUALIFICATION OF RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS

SEC. 12. Any approved retail food store or wholesale food concern may be disqualified for a specified period of time from further participation in the food stamp program, or subjected to a civil money penalty of up to \$5,000 for each violation if the Secretary determines that its disqualification would cause hardship to food stamp households, on a finding, made as specified in the regulations, that such store or concern has violated any of the provisions of this Act or the regulations issued pursuant to this Act. Such disqualification shall be for such period of time as may be determined in accordance with regulations issued pursuant to this Act. The action of disqualification or the imposition of a civil money penalty shall be subject to review as provided in section 14 of this Act. (7 U.S.C. 2021).

COLLECTION AND DISPOSITION OF CLAIMS⁸⁹

SEC. 13. (a) The Secretary shall have the power to determine the amount of and settle and adjust any claim and to compromise or deny all or part of any such claim or claims arising under the provisions of this Act or the regulations issued pursuant to the Act, including, but not limited to, claims arising from fraudulent and non-fraudulent overissuances to recipients, including the power to waive claims if the Secretary determines that to do so would serve the purposes of this Act. Such powers with respect to claims against recipients may be delegated by the Secretary to State agencies. The Secretary shall have the power to reduce amounts otherwise due to a State agency under section 16 of this Act to collect unpaid claims assessed against the State agency if the State agency has declined or exhausted its appeal rights under section 14 of this Act.

⁸⁷ Amended by Public Law 96-249, section 123, 94 Stat. 363, May 26, 1980, to add subsection (1).

⁸⁸ Amended by Public Law 97-98, section 1323, 95 Stat. 1287, Dec. 22, 1981, to add new subsection (m).

⁸⁹ Amended by Public Law 97-35, section 113(b), 95 Stat. 363, Aug. 13, 1981, to strike the words "Determination of" and substitute the words "Collection and" in lieu thereof.

(b)(1) In the case of an ineligibility determination under section 6(b) of this Act, the household of which such ineligible individual is a member is required to agree to a reduction in the allotment of the household of which such individual is a member, or payment in cash, in accordance with a schedule determined by the Secretary, that will be sufficient to reimburse the Federal Government for the value of any overissuance of coupons resulting from the activity that was the basis of the ineligibility determination. If a household refuses to make an election, or elects to make a payment in cash under the provisions of the preceding sentence and fails to do so, the household shall be subject to an allotment reduction.

(2) State agencies shall collect any claim against a household arising from the overissuance of coupons, other than claims the collection of which is provided for in paragraph (1) of this subsection and claims arising from an error of the State agency, by reducing the monthly allotments of the household. These collections shall be limited to 10 per centum of the monthly allotment (or \$10 per month, whenever that would result in a faster collection rate).⁹⁰ (7 U.S.C. 2022).

ADMINISTRATIVE AND JUDICIAL REVIEW

SEC. 14. (a)⁹¹ Whenever an application of a retail food store or wholesale food concern to participate in the food stamp program is denied pursuant to section 9 of this Act, or a retail food store or wholesale food concern is disqualified or subjected to a civil money penalty under the provisions of section 12 of this Act, or all or part of any claim of a retail food store or wholesale food concern is denied under the provisions of section 13 of this Act, or a claim against a State agency is stated pursuant to the provisions of section 13 of this Act, notice of such administrative action shall be issued to the retail food store, wholesale food concern, or State agency involved. Such notice shall be delivered by certified mail or personal service. If such store, concern, or State agency is aggrieved by such action, it may, in accordance with regulations promulgated under this Act, within ten days of the date of delivery of such notice, file a written request for an opportunity to submit information in support of its position to such person or persons as the regulations may designate. If such a request is not made or if such store, concern, or State agency fails to submit information in support of its position after filing a request, the administrative determination shall be final. If such request is made by such store, concern, or State agency, such information as may be submitted by the store, concern, or State agency, as well as such other information as may be available, shall be reviewed by the person or persons designated by the Secretary, who shall, subject to the right of

⁹⁰ Amended by Public Law 97-35, section 113(a), 95 Stat. 363, Aug. 13, 1981, to insert "(a)" immediately after the section designation; and insert before the period at the end of the first sentence "including the power to waive claims if the Secretary determines that to do so would serve the purposes of this Act"; and add the following new sentence at the end thereof: "The Secretary shall have the power to reduce amounts otherwise due to a State agency under section 16 of the Act to collect unpaid claims assessed against the State agency if the State agency has declined or exhausted its appeal rights under section 14 of this Act."; and to add subparagraphs (b)(1) and (2).

⁹¹ Amended by Public Law 97-98, section 1320(b), 95 Stat. 1286, Dec. 22, 1981, to add the subsection designation "(a)".

judicial review hereinafter provided, make a determination which shall be final and which shall take effect thirty days after the date of the delivery or service of such final notice of determination. If the store, concern, or State agency feels aggrieved by such final determination, it may obtain judicial review thereof by filing a complaint against the United States in the United States court for the district in which it resides or is engaged in business, or, in the case of a retail food store or wholesale food concern, in any court of record of the State having competent jurisdiction, within thirty days after the date of delivery or service of the final notice of determination upon it, requesting the court to set aside such determination. The copy of the summons and complaint required to be delivered to the official or agency whose order is being attacked shall be sent to the Secretary or such person or persons as the Secretary may designate to receive service of process. The suit in the United States district court or State court shall be a trial de novo by the court in which the court shall determine the validity of the questioned administrative action in issue. If the court determines that such administrative action is invalid, it shall enter such judgment or order as it determines is in accordance with the law and the evidence. During the pendency of such judicial review, or any appeal therefrom the administrative action under review shall be and remain in full force and effect, unless an application to the court on not less than ten days' notice, and after hearing thereon and a showing of irreparable injury, the court temporarily stays such administrative action pending disposition of such trial or appeal.

(b) In any judicial action arising under this Act, any food stamp allotments found to have been wrongfully withheld shall be restored only for periods of not more than one year prior to the date of the commencement of such action, or in the case of an action seeking review of a final State agency determination, not more than one year prior to the date of the filing of a request with the State for the restoration of such allotments or, in either case, not more than one year prior to the date the State agency is notified or otherwise discovers the possible loss to a household.⁹² (7 U.S.C. 2023).

VIOLATIONS AND ENFORCEMENT

SEC. 15. (a) Notwithstanding any other provision of this Act, the Secretary may provide for the issuance or presentment for redemption of coupons to such person or persons, and at such times and in such manner, as the Secretary deems necessary or appropriate to protect the interests of the United States or to ensure enforcement of the provisions of this Act or the regulations issued pursuant to this Act.

(b)(1) Subject to the provisions of paragraph (2) of this subsection, whoever knowingly uses, transfers, acquires, alters, or possesses coupons or authorization cards in any manner not authorized by this Act or the regulations issued pursuant to this Act shall, if such coupons or authorization cards are of the value of \$100 or more, be

⁹² Amended by Public Law 97-98, section 1320(b), 95 Stat. 1286, Dec. 22, 1981, to add new subsection (b).

guilty of a felony and shall, upon the first conviction thereof, be fined not more than \$10,000 or imprisoned for not more than five years, or both, and, upon the second and any subsequent conviction thereof, shall be imprisoned for not less than six months nor more than five years and may also be fined not more than \$10,000 or, if such coupons or authorization cards are of a value of less than \$100, shall be guilty of a misdemeanor, and, upon the first conviction thereof, shall be fined not more than \$1,000 or imprisoned for not more than one year, or both, and upon the second and any subsequent conviction thereof, shall be imprisoned for not more than one year and may also be fined not more than \$1,000. In addition to such penalties, any person convicted of a felony or misdemeanor violation under this subsection may be suspended by the court from participation in the food stamp program for an additional period of up to eighteen months consecutive to that period of suspension mandated by section 6(b)(1) of this Act.

(2) In the case of any individual convicted of an offense under paragraph (1) of this subsection, the court may permit such individual to perform work approved by the court for the purpose of providing restitution for losses incurred by the United States and the State agency as a result of the offense for which such individual was convicted. If the court permits such individual to perform such work and such individual agrees thereto, the court shall withhold the imposition of the sentence on the condition that such individual perform the assigned work. Upon the successful completion of the assigned work the court may suspend such sentence.

(c) Whoever presents, or causes to be presented, coupons for payment or redemption of the value of \$100 or more, knowing the same to have been received, transferred, or used in any manner in violation of the provisions of this Act or the regulations issued pursuant to this Act, shall be guilty of a felony and, upon the first conviction thereof, shall be fined not more than \$10,000 or imprisoned for not more than five years, or both, and, upon the second and any subsequent conviction thereof, shall be imprisoned for not less than one year not more than five years and may also be fined not more than \$10,000, or, if such coupons are of a value of less than \$100, shall be guilty of a misdemeanor and, upon the first conviction thereof, shall be fined not more than \$1,000 or imprisoned for not more than one year, or both, and, upon the second and any subsequent conviction thereof, shall be imprisoned for not more than one year and may also be fined not more than \$1,000. In addition to such penalties, any person convicted of a felony or misdemeanor violation under this subsection may be suspended by the court from participation in the food stamp program for an additional period of up to eighteen months consecutive to that period of suspension mandated by section 6(b)(1) of this Act.⁹³

(d) Coupons issued pursuant to this Act shall be deemed to be obligations of the United States within the meaning of section 8 of title 18, United States Code.

(e) Any coupon issuer or any officer, employee, or agent thereof convicted of failing to provide the report required under section

⁹³ Amended by Public Law 97-98, section 1324, 95 Stat. 1288, Dec. 22, 1981, to revise subsections (b) and (c).

7(d) of this Act or of violating the regulations issued under section 7(d) and (e) of this Act shall be fined not more than \$1,000 or imprisoned for not more than one year, or both.

(f) Any coupon issuer or any officer, employee, or agent thereof convicted of knowingly providing false information in the report required under section 7(d) of this Act shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

(g) The Secretary may subject to forfeiture and denial of property rights any nonfood items, moneys, negotiable instruments, securities, or other things of value that are furnished or intended to be furnished by any person in exchange for coupons or authorization cards in any manner not authorized by this Act or the regulations issued under this Act. Any forfeiture and disposal of property forfeited under this subsection shall be conducted in accordance with procedures contained in regulations issued by the Secretary.⁹⁴ (7 U.S.C. 2024).

ADMINISTRATIVE COST-SHARING AND QUALITY CONTROL

SEC. 16. (a) The Secretary is authorized to pay to each State agency an amount equal to 50 per centum of all administrative costs involved in each State agency's operation of the food stamp program, which costs shall include, but not be limited to, the cost of (1) the certification of applicant households, (2) the acceptance, storage, protection, control, and accounting of coupons after their delivery to receiving points within the State, (3) the issuance of coupons to all eligible households, and (4) fair hearings:⁹⁵ *Provided*, That the Secretary is authorized to pay each State agency an amount not less than 75 per centum of the costs of State food stamp program investigations and prosecutions, and is further authorized at the Secretary's discretion to pay any State agency administering the food stamp program on all or part of an Indian reservation under section 11(d) of this Act such amounts for administrative costs as the Secretary determines to be necessary for effective operation of the food stamp program, as well as to permit each State to retain 50 per centum of the value of all funds or allotments recovered or collected pursuant to section 13(b)(1) of this Act.⁹⁶ The officials responsible for making determinations of ineligibility⁹⁷ under this Act shall not receive or benefit from revenues retained by the State under the provisions of this subsection.⁹⁸

(b) The Secretary shall (1) establish standards for the efficient and effective administration of the food stamp program by the

⁹⁴ Amended by Public Law 96-249, section 124, 94 Stat. 363, May 26, 1980, to add subsection (g).

⁹⁵ Amended by Public Law 97-35, section 111(b), 95 Stat. 362, Aug. 13, 1981, to strike clause (1) and redesignate clauses (2), (3), (4), and (5) as clauses (1), (2), (3) and (4), respectively.

⁹⁶ Amended by Public Law 97-35, section 114(b), 95 Stat. 362, Aug. 13, 1981, to strike out in the first sentence "through prosecutions" and all that follows down through the end of the sentence and insert in lieu thereof "pursuant to section 13(b)(1) of this Act and 25 per centum of the value of all funds or allotments recovered or collected pursuant to section 13(b)(2) of this Act."

⁹⁷ Amended by Public Law 97-35, section 114(2), 95 Stat. 363, Aug. 13, 1981, to strike the word "fraud" and substitute the word "ineligibility".

⁹⁸ Amended by Public Law 96-58, section 6, 93 Stat. 391, Aug. 14, 1979, to add the language following "effective operation of the food stamp program".

States⁹⁹, and (2) instruct each State to submit, at regular intervals, reports which shall specify the specific administrative actions proposed to be taken and implemented in order to meet the efficiency and effectiveness standards established pursuant to clause (1) of this subsection.¹⁰⁰

(c) The Secretary is authorized to adjust a State agency's federally funded share of administrative costs pursuant to subsection (a) of this section, other than the costs already shared in excess of 50 per centum as described in the exception clause of subsection (a) of this section, by increasing such share to (1) effective October 1, 1978, 60 per centum of all such administrative costs in the case of a State agency whose (A) semiannual cumulative allotment error rates with respect to eligibility, overissuance, and underissuance as calculated in the quality control program undertaken pursuant to subsection (d)(1) of the section are less than five per centum and (B) whose rate of invalid decisions in denying eligibility as calculated in the quality control program conducted under subsection (d)(1) of this section is less than a nationwide percentage that the Secretary determines to be reasonable; (2) effective October 1, 1980, 65 per centum of all such administrative costs in the case of a State agency meeting the standards contained in paragraph (1) of this subsection; (3) effective October 1, 1980, 60 per centum of all such administrative costs in the case of a State agency whose cumulative allotment error rate as determined under paragraph (1)(A) of this subsection is greater than 5 per centum but less than 8 per centum or the national standard payment error rate for the base period, whichever is lower, and which also meets the standard contained in paragraph (1)(B) of this subsection; and (4) effective October 1, 1980, 55 per centum of all such administrative costs in the case of a State agency whose annual rate of error reduction is equal to or exceeds 25 per centum, and, effective October 1, 1981, which also meets the standard contained in paragraph (1)(B) of this subsection.¹⁰¹ No State agency shall receive more than one of the increased federally funded shares of administrative costs set forth in paragraphs (1) through (4) of this subsection.¹⁰²

(d) Effective October 1, 1981,¹⁰³ and annually thereafter, each State not receiving an increased share of administrative costs pursuant to subsection (c)(2)¹⁰⁴ of this section shall be required to develop and submit to the Secretary for approval, as part of the plan of operation required to be submitted under section 11(d) of this

⁹⁹ Amended by Public Law 97-98, section 1325, 95 Stat. 1289, Dec. 22, 1981, to strike the phrase "including, but not limited to, staffing standards such as caseload per certification worker limitations," immediately following the word "States".

¹⁰⁰ Amended by Public Law 96-249, section 121, 94 Stat. 363, May 26, 1980, to strike out the last sentence of section 16(b).

¹⁰¹ Amended by Public Law 97-98, section 1326(1), 95 Stat. 1289, Dec. 22, 1981, to add the language beginning, "and, effective October 1, 1981, . . ." and continuing to the end of the first sentence.

¹⁰² Amended by Public Law 96-249, section 125, 94 Stat. 364, May 26, 1980, to (1) shift the placement of the October 1, 1978, effective date, (2) provide that cumulative error rates shall be dealt with semiannually, and (3) add new subparagraphs (A) and (B) to subsection (1) and add new subsections (2), (3) and (4).

¹⁰³ Amended by Public Law 97-98, section 1326(2), 95 Stat. 1289, Dec. 22, 1981, to strike "October 1, 1978" and substitute "October 1, 1981".

¹⁰⁴ Amended by Public Law 97-98, section 1326(2), 95 Stat. 1289, Dec. 22, 1981, to add "(2)" following the phrase "subsection (c)".

Act, a quality control plan for the State which shall specify the actions such State proposes to take in order to reduce—

(1) the incidence of error rates in and the value of—

(A) food stamp allotments for households which fail to meet basic program eligibility requirements;

(B) food stamp allotments overissued to eligible households; and

(C) food stamp allotments underissued to eligible households; and

(2) the incidence of invalid decisions in certifying or denying eligibility.

(e) As used in this section "quality control" means monitoring and reducing the rate of errors in determining basic eligibility and benefit levels.

(f) The Secretary and State agencies shall ¹⁰⁵ (1) require, as a condition of eligibility for participation in the food stamp program, that each household member furnish to the State agency their social security account number (or numbers, if they have more than one number), and (2) use such account numbers in the administration of the food stamp program. The Secretary and State agencies shall have access to the information regarding individual food stamp program applicants and participants who receive benefits under title XVI of the Social Security Act that has been provided to the Secretary of Health, Education, and Welfare,* but only to the extent that the Secretary and the Secretary of Health, Education, and Welfare* determine necessary for purposes of determining or auditing a household's eligibility to receive assistance or the amount thereof under the food stamp program, or verifying information related thereto.¹⁰⁶

(g)(1) The Secretary shall institute an error liability program under which each State agency shall, other than for good cause as determined by the Secretary, pay to the Secretary or have withheld by the Secretary as described in paragraph (4) of this subsection, the amount by which the dollar value equivalent of the State agency's payment error rate, as determined by the Secretary, for each six-month period, exceeds the dollar value equivalent of either—

(A) the State agency payment error rate for the base period less a national annual rate of error reduction, as determined by the Secretary, taking into account program circumstances and rates of error reduction in comparable Federal or federally assisted public assistance programs, or

(B) the national standard payment error rate for the base period, whichever is higher.

(2) As used in this subsection, (A) "base period" means, for fiscal year 1981, the six months beginning October 1, 1979, and ending March 31, 1980 and, for each fiscal year thereafter, the six months beginning October 1 and ending March 30 of the prior fiscal year,

*Section 509(b) of Public Law 96-88, 93 Stat. 695, Oct. 17, 1979, provides that any reference to the Secretary of Health, Education, and Welfare shall be deemed to refer to the Secretary of Health and Human Services.

¹⁰⁵ Amended by Public Law 97-98, section 1327, 95 Stat. 1239, Dec. 22, 1981, to strike the word "may" and substitute the word "shall" in the first sentence of subsection (f).

¹⁰⁶ Amended by Public Law 96-58, section 4, 93 Stat. 391, Aug. 14, 1979, to add subsection 16(f). See also section 127 of Public Law 96-249, 94 Stat. 365-367, May 26, 1980, for related amendments to the Internal Revenue Code of 1954 pertaining to the Social Security Act.

(B) "payment error rate" means the percentage of all food stamp allotments which are issued in a given period by a State agency to households that fail to meet the eligibility requirements of sections 5 and 6 of this Act, are overissued to eligible households, and are underissued to eligible households; (C) "national standard payment error rate" means the weighted mean payment error rate for all State agencies; and (D) "dollar value equivalent" means the value of allotments determined by multiplying a given error rate by the dollar value of all the allotments issued by a State agency during the particular period in question.

(3) The Secretary shall conduct a study to determine whether it is feasible to include in the calculation of each State agency's payment error rate, and in the calculation of the national standard payment error rate, invalid decisions by each State agency denying eligibility to households that are in fact eligible. If the Secretary determines that such a change in the method of calculation is feasible, the Secretary shall implement changes in the method of calculating payment error rates for the purposes described in this section.

(4) If the Secretary makes a claim against a State for payment under paragraph (1) of this subsection, that State may seek administrative and judicial review of such claim under the procedures set forth in section 14 of this Act. If such claim is ultimately determined to be valid or is not contested by the State, it shall be collected by the Secretary and may be collected through State payment, through withholding amounts otherwise payable to the State agency under subsection (a) of this section, or through other mechanisms authorized by the Federal Claims Collection Act of 1966.

(h) Notwithstanding any other provision of law, counsel may be employed and counsel fees, court costs, bail, and other expenses incidental to the defense of officers and employees of the Department of Agriculture may be paid in judicial or administrative proceedings to which such officers and employees have been made parties and that arise directly out of their performance of duties under this Act; and

(i) Effective October 1, 1980, the Secretary is authorized to pay to each State agency an amount equal to 75 per centum of the costs incurred by the State agency in the planning, design, development, or installation of automatic data processing and information retrieval systems that the Secretary determines (1) will assist in meeting the requirements of this Act, (2) meet such conditions as the Secretary prescribes, (3) are likely to provide more efficient and effective administration of the food stamp program, and (4) will be compatible with other such systems used in the administration of State plans under the Aid to Families with Dependent Children Program under title IV of the Social Security Act: *Provided*, That there shall be no such payments to the extent that a State agency is reimbursed for such costs under any other Federal program or uses such systems for purposes not connected with the food stamp program: *Provided further*, That any costs matched under this subsection shall be excluded in determining the State agency's admin-

istrative costs under any other subsection of this section.¹⁰⁷ (7 U.S.C. 2025).

RESEARCH, DEMONSTRATION, AND EVALUATIONS

SEC. 17. (a) The Secretary may, by way of making contracts with or grants to public or private organizations or agencies, undertake research that will help improve the administration and effectiveness of the food stamp program in delivering nutrition-related benefits.

(b)(1) The Secretary may conduct on a trial basis, in one or more areas of the United States, pilot or experimental projects designed to test program changes that might increase the efficiency of the food stamp program and improve the delivery of food stamp benefits to eligible households, including projects involving the payment of the value of allotments or the average value of allotments by household size in the form of cash to eligible households all of whose members are age sixty-five or over or any of whose members are entitled to supplemental security income benefits under title XVI of the Social Security Act or to aid to families with dependent children under part A of title IV of the Social Security Act, the use of countersigned food coupons or similar identification mechanisms that do not invade a household's privacy, and the use of food checks or other voucher-type forms in place of food coupons. The Secretary may waive the requirements of this Act to the degree necessary for such projects to be conducted, except that no project, other than a project involving the payment of the average value of allotments by household size in the form of cash to eligible households, shall be implemented which would lower or further restrict the income or resource standards or benefit levels provided pursuant to sections 5 and 8 of this Act. Any pilot or experimental project implemented under this paragraph and operating as of October 1, 1981, involving the payment of the value of allotments in the form of cash to eligible households all of whose members are either age sixty-five or over or entitled to supplemental security income benefits under title XVI of the Social Security Act shall be continued until October 1, 1985, if the State so requests.¹⁰⁸

(2) The Secretary shall, jointly with the Secretary of Labor, implement two pilot projects involving the performance of work in return for food stamp benefits in each of the seven administrative regions of the Food and Nutrition Service of the Department of Agriculture, such projects to be (A) appropriately divided in each region between locations that are urban and rural in characteristics and among locations selected to provide a representative cross-section of political subdivisions in the States and (B) submitted for approval prior to project implementation, together with the names of the agencies or organizations that will be engaged in such projects, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. Under such pilot projects, any person who is subject to

¹⁰⁷ Amended by Public Law 96-249, sections 126, 128 and 129, 94 Stat. 364, 365 and 367, May 26, 1980, to add subsections (g), (h), and (i).

¹⁰⁸ Amended by Public Law 97-98, section 1328, 95 Stat. 1289, Dec. 22, 1981, to modify section 17(b)(1) to extend and amend cash-out pilot projects.

the work registration requirements pursuant to section 6(d) of this Act, and is a member of a household that does not have earned income equal to or exceeding the allotment to which the household is otherwise entitled pursuant to section 8(a) of this Act, shall be ineligible to participate in the food stamp program as a member of any household during any month in which such person refuses, after not being offered employment in the private sector of the economy for more than thirty days (ten days in at least one pilot project area designated by the Secretary)¹⁰⁹ after the initial registration for employment referred to in section 6(d)(1)(i) of this Act, to accept an offer of employment from a political subdivision or a prime sponsor pursuant to the Comprehensive Employment and Training Act of 1973, as amended (29 U.S.C. 812), for which employment compensation shall be paid in the form of the allotment to which the household is otherwise entitled pursuant to section 8(a) of this Act, with each hour of employment entitling the household to a portion of the allotment equal in value to 100 per centum of the Federal minimum hourly rate under the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 206(a)(1)); which employment shall not, together with any other hours worked in any other capacity by such person exceed forty hours a week; and which employment shall not be used by the employer to fill a job opening created by the action of such employer in laying off or terminating the employment of any regular employee not supported under this paragraph in anticipation of filling the vacancy so created by hiring an employee or employees to be supported under this paragraph: *Provided*, That all of the political subdivision's or prime sponsor's public service jobs supported under the Comprehensive Employment and Training Act of 1973, as amended (29 U.S.C. 812), are filled before such subdivision or sponsor can extend a job offer pursuant to this paragraph: *Provided further*, That the sponsor of each such project shall provide the assurances required of prime sponsors under section 205(c)(7), (8), (15), (19), and (24) of the Comprehensive Employment and Training Act of 1973, as amended (29 U.S.C. 845(c)), and the Secretary shall require such sponsors to comply with the conditions contained in sections 208(a)(1), (4), and (5) and (c) and 703(4) of the Comprehensive Employment and Training Act of 1973, as amended (29 U.S.C. 848 (a) and (c) and 983). The Secretary and the Secretary of Labor shall jointly issue reports to the appropriate committees of Congress on the progress of such pilot projects no later than six and twelve months following enactment of this Act, shall issue interim reports no later than October 1, 1979, October 1, 1980, and March 30, 1981, shall issue a final report describing the results of such pilot projects based upon their operation from their commencement through the fiscal year ending September 30, 1981, and shall pay to the agencies or organizations operating such pilot projects 50 per centum of all administrative costs involved in such operation.¹¹⁰

¹⁰⁹ Amended by Public Law 96-249, section 131, 94 Stat. 367, May 26, 1980, to add the parenthetical phrase.

¹¹⁰ Amended by Public Law 95-400, 92 Stat. 856, Sept. 30, 1978, to alter the reporting dates, and further amended by Public Law 96-249, section 132(a), 94 Stat. 368, May 26, 1980, to replace the original language of the Act, as amended, with the language beginning "shall issue interim reports", made effective on the date of enactment of Public Law 96-249, by section 132(b) thereof, 94 Stat. 368, May 26, 1980.

(c) The Secretary shall develop and implement measures for evaluating, on an annual or more frequent basis, the effectiveness of the food stamp program in achieving its stated objectives, including, but not limited to, the program's impact upon the nutritional and economic status of participating households, the program's impact upon all sectors of the agricultural economy, including farmers and ranchers, as well as retail food stores, and the program's relative fairness to households of different income levels, different age composition, different size, and different regions of residence. Further, the Secretary shall, by way of making contracts with or grants to public or private organizations or agencies, implement pilot programs to test various means of measuring on a continuing basis the nutritional status of low income people, with special emphasis on people who are eligible for food stamps, in order to develop minimum common criteria and methods for systematic nutrition monitoring that could be applied on a nationwide basis. The locations of the pilot programs shall be selected to provide a representative geographic and demographic cross-section of political subdivisions that reflect natural usage patterns of health and nutritional services and that contain high proportions of low income people. The Secretary shall report on the progress of these pilot programs on an annual basis commencing on July 1, 1982, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, together with such recommendations as the Secretary deems appropriate.¹¹¹

(d) Notwithstanding any other provision of law, the Secretary shall, in consultation with the Secretary of the Treasury, conduct a study, through the use of Federal income tax data, of the feasibility, alternative methods of implementation, and the effects of a program to recover food stamp benefits from members of eligible households in which the adjusted gross income of members of such households for a calendar year (as defined by the Internal Revenue Code of 1954) may exceed twice the income poverty guidelines set forth in section 5(c) of this Act. Such study shall be conducted in rural and urban areas only on a voluntary basis by food stamp recipients. The Secretary shall, no later than twelve months and eighteen months from the date of enactment of this Act, report the results of the study to the Committees on Agriculture and Ways and Means of the House of Representatives and to the Committees on Agriculture, Nutrition, and Forestry and Finance of the Senate, together with such recommendations as the Secretary deems appropriate.

(e) The Director of the Congressional Budget Office, in consultation with the Secretary, the Secretary of Commerce, and the Secretary of Labor, shall review the Consumer Price Index and the various alternative consumer price or cost-of-living indices, such as the Personal Consumption Expenditure (PCE) Deflator, to examine the limitations of each statistical alternative and the factors causing the various indices to differ with each other and to reflect

¹¹¹ Amended by Public Law 97-98, section 1329, 95 Stat. 1290, Dec. 22, 1981, to add new language beginning, "Further, the Secretary shall, by way of making contracts . . ." and continuing, as indicated, through to the end of subsection (c).

inconsistencies with their own prior year indices in measuring the cost-of-living or the rate of inflation. The study shall seek to determine whether the Consumer Price Index is the most accurate indexation base for the food stamp program, or whether an alternative or combination of alternatives may be the more accurate indexation base to reflect consumer prices or changes in the costs of living. The Director of the Congressional Budget Office shall report the results of the study to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, together with such recommendations as the Director deems appropriate, by February 1, 1981.¹¹²

(f) The Secretary may conduct no more than two Statewide pilot projects (upon the request of a State) and no more than fourteen pilot projects in political subdivisions of States (upon the request of any such political subdivision) in which households that include one or more recipients of aid to families with dependent children under part A of title IV of the Social Security Act, of supplemental security income under title XVI of the Social Security Act, or of medical assistance under title XIX of the Social Security Act, and whose income does not exceed the applicable income standard of eligibility described in section 5(c) of this Act shall be deemed to satisfy the application requirements prescribed under section 5(a) of this Act and the income and resource requirements prescribed under subsections (d) through (g) of section 5 of this Act. For any pilot project carried out under this subsection, allotments provided pursuant to section 8(a) of this Act shall be based upon household size and (1) benefits paid to such household under part A of title IV or title XVI of the Social Security Act, or (2) income as determined for eligibility under title XIX of the Social Security Act or at the option of the political subdivision or the State, the standard of need for such size household under such programs, except that the Secretary shall adjust the value of such allotments as may be necessary to ensure that the average allotment by household size for households participating in such pilot project and receiving such aid to families with dependent children, such supplemental security income, or such medical assistance, as the case may be, is not less than the average allotment which would have been provided under this Act but for the operation of this subsection, for each category of households, respectively, in such pilot project area, for any period during which such pilot project is in operation. The Secretary shall evaluate the impact of such pilot projects on recipient households, administrative costs, and error rates. The administrative costs of such projects shall be shared in accordance with the provisions of section 16 of the Act. In implementing this section, the Secretary shall consult with the Secretary of Health and Human Services to ensure that to the extent practicable, in the case of households participating in such pilot projects, the processing of applications for, and determinations of eligibility to receive, food stamp benefits are simplified and are unified with the processing of applications for, and determinations of eligibility to receive,

¹¹² Amended by Public Law 96-249, section 133, 94 Stat. 368, May 26, 1980, to add subsection (e).

benefits under such titles of the Social Security Act.¹¹³ (7 U.S.C. 2026).

AUTHORIZATION FOR APPROPRIATIONS

SEC. 18. (a)(1) To carry out the provisions of this Act, there are hereby authorized to be appropriated not in excess of \$5,847,600,000 for the fiscal year ending September 30, 1978; not in excess of \$6,778,900,000¹¹⁴ for the fiscal year ending September 30, 1979; not in excess of \$9,491,000,000 for the fiscal year ending September 30, 1980; not in excess of \$9,739,276,000¹¹⁵ for the fiscal year ending September 30, 1981, and not in excess of \$11,300,000,000 for the fiscal year ending September 30, 1982.¹¹⁶ Not to exceed one-fourth of 1 per centum of the previous year's appropriation is authorized in each such fiscal year to carry out the provisions of section 17 of this Act. The Secretary shall, by the fifteenth day of each month, submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate setting forth the Secretary's best estimate of the second preceding month's expenditure, including administrative costs, as well as the cumulative totals for the fiscal year. In each monthly report, the Secretary shall also state whether there is reason to believe that reductions in the value of allotments issued to households certified to participate in the food stamp program will be necessary under subsection (b) of this section.¹¹⁷

(2) No funds authorized to be appropriated under this Act or any other Act of Congress shall be used by any person, firm, corporation, group, or organization at any time, directly or indirectly, to interfere with or impede the implementation of any provision of this Act or any rule, regulation, or project thereunder, except that this limitation shall not apply to the provision of legal and related assistance in connection with any proceeding or action before any State or Federal agency or court. The President shall ensure that this paragraph is complied with by such order or other means as the President deems appropriate.¹¹⁸

(b) In any fiscal year, the Secretary shall limit the value of those allotments issued to an amount not in excess of the appropriation for such fiscal year. Notwithstanding any other provision of this Act,¹¹⁹ if in any fiscal year the Secretary finds that the requirements of participating States will exceed the limitation set herein,

¹¹³ Amended by Public Law 97-98, section 1330, 95 Stat. 1290, Dec. 22, 1981, to add new subsection (f).

¹¹⁴ Amended by Public Law 96-58, section 1, 93 Stat. 389, Aug. 14, 1979, to change the amount authorized to be appropriated for the fiscal year ending September 30, 1979, from \$6,158,900,000 to \$6,778,900,000.

¹¹⁵ Amended by Public Law 96-249, section 201, 94 Stat. 370, May 26, 1980, to reflect change in appropriations ceiling, increasing \$6,188,600,000 and \$6,235,900,000 to \$9,491,000,000 and \$9,739,276,000, respectively.

¹¹⁶ Amended by Public Law 97-98, section 1331, 95 Stat. 1291, Dec. 22, 1981, to strike "and" after "September 30, 1980," and insert before the period at the end thereof the following "; and not in excess of \$11,300,000,000 for the fiscal year ending September 30, 1982".

¹¹⁷ Amended by Public Law 96-58, section 1(2), 93 Stat. 389, Aug. 14, 1979, to strike the original final sentence of subsection 18(a) and insert in lieu thereof the last two sentences of subsection 18(a)(1).

¹¹⁸ Amended by Public Law 96-249, section 134, 94 Stat. 368, May 26, 1980, to add "(1)" after "SEC. 18(a)" and add paragraph (2).

¹¹⁹ Amended by Public Law 96-58, section 1, 93 Stat. 389, Aug. 14, 1979, to add "Notwithstanding any other provision of this Act,".

the Secretary shall direct State agencies to reduce the value of such allotments to be issued to households certified as eligible to participate in the food stamp program to the extent necessary to comply with the provisions of this subsection.

(c) In prescribing the manner in which allotments will be reduced under subsection (b) of this section, the Secretary shall ensure that such reductions reflect, to the maximum extent practicable, the ratio of household income, determined under sections 5(d) and 5(e) of this Act, to the income standards of eligibility, for households of equal size, determined under section 5(c) of this Act. The Secretary may, in prescribing the manner in which allotments will be reduced, establish (1) special provisions applicable to persons sixty years of age or over and persons who are physically or mentally handicapped or otherwise disabled, and (2) minimum allotments after any reductions are otherwise determined under this section.

(d) Not later than sixty days after the issuance of a report under subsection (a) of this section in which the Secretary expresses the belief that reductions in the value of allotments to be issued to households certified to participate in the food stamp program will be necessary, the Secretary shall take the requisite action to reduce allotments in accordance with the requirements of this section. Not later than seven days after the Secretary takes any action to reduce allotments under this section, the Secretary shall furnish the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a statement setting forth (1) the basis of the Secretary's determination, (2) the manner in which the allotments will be reduced, and (3) the action that has been taken by the Secretary to reduce the allotments.¹²⁰

(e) Funds collected from claims against households or State agencies, including claims collected pursuant to section 7(f), 11(g) and (h), 13(b), and 16(g) of this Act, claims resulting from resolution of audit findings, and claims collected from households receiving over-issuances, shall be credited to the food stamp program appropriation account for the fiscal year in which the collection occurs. Funds provided to State agencies under section 16(c) of this Act shall be paid from the appropriation account for the fiscal year in which the funds are provided.¹²¹

BLOCK GRANT

SEC. 19. (a)(1)(A) From the sums appropriated under this Act the Secretary shall, subject to the provisions of this subsection and subsection (b), pay to the Commonwealth of Puerto Rico not to exceed \$825,000,000 for each fiscal year to finance 100 per centum of the expenditures for food assistance provided to needy persons, and 50 per centum of the administrative expenses related to the provision of such assistance.

¹²⁰ Amended by Public Law 96-58, section 1, 93 Stat. 389, 390, Aug. 14, 1979, to add subsections 18(c) and (d).

¹²¹ Amended by Public Law 97-98, section 1332, 95 Stat. 1291, Dec. 22, 1981, to add new subsection (e).

(B) The payments to the Commonwealth for any fiscal year shall not exceed the expenditures by that jurisdiction during that year for the provision of the assistance the provision of which is included in the plan of the Commonwealth approved under subsection (b) and 50 percentum of the related administrative expenses.

(2) The Secretary shall, subject to the provisions of subsection (b), pay to the Commonwealth for the applicable fiscal year, at such times and in such manner as the Secretary may determine, the amount estimated by the Commonwealth pursuant to subsection (b)(1)(A)(iv), reduced or increased to the extent of any prior overpayment or current underpayment which the Secretary determines has been made under this section and with respect to which adjustment has not already been made under this subsection.

(b)(1)(A) In order to receive payments under this Act for any fiscal year, the Commonwealth shall have a plan for the fiscal year approved by the Secretary under this section. By July 1 of each year, if the Commonwealth wishes to receive payments, it shall submit a plan for the provision of the assistance described in subsection (a)(1)(A) for the following fiscal year which—

(i) designates a single agency which shall be responsible for the administration, or supervision of the administration, of the program for the provision of such assistance;

(ii) assesses the food and nutrition needs of needy persons residing in the Commonwealth;

(iii) describes the program for the provision of such assistance, including the assistance to be provided and the persons to whom such assistance will be provided, and any agencies designated to provide such assistance, which program must meet such requirements as the Secretary may by regulation prescribe for the purpose of assuring that assistance is provided to the most needy persons in the jurisdiction;

(iv) estimates the amount of expenditures necessary for the provision of the assistance described in the program and related administrative expenses, up to the amount provided for payment by subsection (a)(1)(A); and

(v) includes such other information as the Secretary may require.

(B)(i) the Secretary shall approve or disapprove any plan submitted pursuant to subparagraph (A) no later than August 1 of the year in which it is submitted. The Secretary shall approve any plan which complies with the requirements of subparagraph (A). If a plan is disapproved because it does not comply with any of the requirements of that paragraph the Secretary shall, except as provided in subparagraph (B)(ii), notify the appropriate agency in the Commonwealth that payments will not be made to it under subsection (a) for the fiscal year to which the plan applies until the Secretary is satisfied that there is no longer any such failure to comply, and until the Secretary is so satisfied, the Secretary will make no payments.

(ii) The Secretary may suspend the denial of payments under subparagraph (B)(i) for such period as the Secretary determines appropriate and instead withhold payments provided for under subsection (a), in whole or in part, for the fiscal year to which the plan applies, until the Secretary is satisfied that there is no longer any

failure to comply with the requirements of subparagraph (A), at which time such withheld payments shall be paid.

(2)(A) The Commonwealth shall provide for a biennial audit of expenditures under its program for the provision of the assistance described in subsection (a)(1)(A), and within 120 days of the end of each fiscal year in which the audit is made, shall report to the Secretary the findings of such audit.

(B) Within 120 days of the end of the fiscal year, the Commonwealth shall provide the Secretary with a statement as to whether the payments received under subsection (a) for that fiscal year exceeded the expenditures by it during that year for which payment is authorized under this section, and if so, by how much, and such other information as the Secretary may require.

(C)(i) If the Secretary finds that there is a substantial failure by the Commonwealth to comply with any of the requirements of subparagraphs (A) and (B), or to comply with the requirements of subsection (b)(1)(A) in the administration of a plan approved under subsection (b)(1)(B), the secretary shall, except as provided in subparagraph (C)(ii), notify the appropriate agency in the Commonwealth that further payments will not be made to it under subsection (a) until the Secretary is satisfied that there will no longer be any such failure to comply, and until the Secretary is so satisfied, the Secretary shall make no further payments.

(ii) The Secretary may suspend the termination of payments under subparagraph (C)(i) for such period as the Secretary determines appropriate, and instead withhold payments provided for under subsection (a), in whole or in part, until the Secretary is satisfied that there will no longer be any failure to comply with the requirements of subparagraphs (A) and (B) and subsection (b)(1)(A), at which time such withheld payments shall be paid.

(iii) Upon a finding under subparagraph (C)(i) of a substantial failure to comply with any of the requirements of subparagraphs (A) and (B) and subsection (b)(1)(A), the Secretary may, in addition to or in lieu of any action taken under subparagraphs (C)(i) and (C)(ii), refer the matter to the Attorney General with a request that injunctive relief be sought to require compliance by the Commonwealth of Puerto Rico, and upon suit by the Attorney General in an appropriate district court of the United States and a showing that noncompliance has occurred, appropriate injunctive relief shall issue.

(c)(1) The Secretary shall provide for the review of the programs for the provision of the assistance described in subsection (a)(1)(A) for which payments are made under this Act.

(2) The Secretary is authorized as the Secretary deems practicable to provide technical assistance with respect to the programs for the provision of the assistance described in subsection (a)(1)(A).

(d) Whoever knowingly and willfully embezzles, misapplies, steals, or obtains by fraud, false statement, or forgery, any funds, assets, or property provided or financed under this section shall be fined not more than \$10,000 or imprisoned for not more than five years, or both, but if the value of the funds, assets or property involved is not over \$200, the penalty shall be a fine of not more

than \$1,000 or imprisonment for not more than one year, or both.¹²² (7 U.S.C. 2028).

WORKFARE

SEC. 20. (a) The Secretary shall permit any political subdivision, in any State, that applies and submits a plan to the Secretary in compliance with guidelines promulgated by the Secretary to operate a workfare program pursuant to which every member of a household participating in the food stamp program who is not exempt by virtue of the provisions of subsection (b) of this section shall accept an offer from such subdivision to perform work on its behalf, or may seek an offer to perform work, in return for compensation consisting of the allotment to which the household is entitled under section 8(a) of this Act, with each hour of such work entitling that household to a portion of its allotment equal in value to 100 per centum of the higher of the applicable State minimum wage or the Federal minimum hourly rate under the Fair Labor Standards Act of 1938.

(b) The household members who shall be exempt from workfare requirements are those who are either (1) mentally or physically unfit; (2) under eighteen years of age; (3) sixty years of age or over; (4) subject to and currently involved at least twenty hours a week in a work training program under a work registration requirement pursuant to title IV of the Social Security Act; (5) a parent or other member of a household with responsibility for the care of a child under age six or of an incapacitated person; (6) a parent or other caretaker of a child in a household where there is another member who is subject to the requirements of this subsection or is employed fulltime; (7) a regular participant in a drug addiction or alcoholic treatment and rehabilitation program; or (8) an individual described in section 6(d)(2)(D) or (F) of this Act.

(c) No operating agency shall require any participating member to work in any workfare position to the extent that such work exceeds in value the allotment to which the household is otherwise entitled or that such work either exceeds twenty hours a week or would, together with any other hours worked in any other compensated capacity by such member on a regular or predictable part-time basis, exceed thirty hours a week.

(d) The operating agency shall—

(1) not provide any work that has the effect of replacing or preventing the employment of an individual not participating in the workfare program;

¹²² Amended by Public Law 97-35, section 116, 95 Stat. 364, Aug. 13, 1981, to, effective July 1, 1982, strike out "Puerto Rico," in section 3(m), clause (3) of section 3(o), section 5(b), wherever it appears in section 5(c), and wherever it appears in section 5(e); and striking out "\$50," and "\$40," in section 5(e); and to add new section 19. Notwithstanding the provisions of section 19 of the Food Stamp Act of 1977, as amended by P.L. 97-35, (1) the amount payable to the Commonwealth of Puerto Rico under section 19 for fiscal year 1982 shall be \$206,500,000, and the Secretary of Agriculture is authorized to grant such waivers of the requirements imposed by that section with respect to that fiscal year as the Secretary determines appropriate to carry out the purposes of that section; and (2) in order to receive the amounts payable under this subsection or section 19 for fiscal years 1982 and 1983, the Commonwealth shall submit, for the Secretary's approval, the plan required by the provisions of subsection 19 by April 1, 1982.

(2) provide the same benefits and working conditions that are provided at the job site to employees performing comparable work for comparable hours; and

(3) reimburse participants for actual costs of transportation and other actual costs all of which are reasonably necessary and directly related to participation in the program but not to exceed \$25 in the aggregate per month.

(e) The operating agency may allow a job search period, prior to making workfare assignments, of up to thirty days following a determination of eligibility.

(f) In the event that any person fails to comply with the requirements of this section, neither that person nor the household to which that person belongs shall be eligible to participate in the food stamp program for two months, unless that person or another person in the household satisfies all outstanding workfare obligations prior to the end of the two-month disqualification period.

(g)(1) The Secretary shall pay to each operating agency 50 per centum of all administrative expenses incurred by such agency in operating a workfare program, including reimbursements to participants for work-related expenses as described in subsection (d)(3) of this section.

(2) The Secretary may suspend or cancel some or all of these payments, or may withdraw approval from a political subdivision to operate a workfare program, upon a finding that the subdivision has failed to comply with the workfare requirements.¹²³ (7 U.S.C. 2029).

¹²³ Amended by Public Law 97-98, section 1333, 95 Stat. 1291, Dec. 22, 1981, to add new section 20.

NATIONAL SCHOOL LUNCH ACT ¹

AN ACT To provide assistance to the States in the establishment, maintenance, operation and expansion of school-lunch programs, and for other purposes.

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National School Lunch Act." (42 U.S.C. 1751, note.)

DECLARATION OF POLICY

SEC. 2. It is hereby declared to be the policy of Congress, as a measure of national security, to safeguard the health and well-being of the Nation's children and to encourage the domestic consumption of nutritious agricultural commodities and other food, by assisting the States, through grants-in-aid and other means, in providing an adequate supply of foods and other facilities for the establishment, maintenance, operation, and expansion of nonprofit school-lunch programs. (42 U.S.C. 1751.)

APPROPRIATIONS AUTHORIZED

SEC. 3.² For each fiscal year there is hereby authorized to be appropriated, out of money in the Treasury not otherwise appropriated, such sums as may be necessary to enable the Secretary of Agriculture (hereinafter referred to as "the Secretary") to carry out the provisions of this Act, other than sections 13, 17, and 19.³ Appropriations to carry out the provisions of this Act and of the Child Nutrition Act of 1966 for any fiscal year are authorized to be made a year in advance of the beginning of the fiscal year in which the funds will become available for disbursement to the States. Notwithstanding any other provision of law, any funds appropriated to carry out the provisions of such Acts shall remain available for the purposes of the Act for which appropriated until expended. (42 U.S.C. 1752.)⁴

¹ P.L. 79-396, 60 Stat. 230, June 4, 1946. For other child feeding programs, see also the Child Nutrition Act of 1966 (p. 87) and section 416 of the Agricultural Act of 1949 (p. 133).

² Section 3 was amended by P.L. 87-823, 76 Stat. 944, Oct. 15, 1962, to delete "beginning with the fiscal year ending June 30, 1947," following "fiscal year" and to add the phrase "other than section 11." The section was further amended by P.L. 90-302, 82 Stat. 117, May 8, 1968, to add the reference to section 13. The final two sentences were added by P.L. 91-248, 84 Stat. 207, May 14, 1970.

³ P.L. 93-326, 88 Stat. 287, June 30, 1974, substituted "13" for "11 and 13". P.L. 94-105, 89 Stat. 529, Oct. 7, 1975, substituted "13, 17, and 19" for "13".

⁴ P.L. 90-302, 82 Stat. 117, May 8, 1968, requires that appropriations be considered Health, Education and Welfare functions for budget purposes.

APPORTIONMENT TO STATES

SEC. 4.⁵ (a) The sums appropriated for any fiscal year pursuant to the authorizations contained in section 3 of this Act shall be available to the Secretary for supplying agricultural commodities and other food for the program in accordance with the provisions of this Act.

(b)(1) The Secretary shall make food assistance payments to each State educational agency each fiscal year, at such times as the Secretary may determine, from the sums appropriated for such purposes, in a total amount equal to the product obtained by multiplying—

(A) the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary under subsection 9(a) of this Act) served during such fiscal year in schools in such State which participate in the school lunch program under this Act under agreements with such State educational agency; by

(B) the national average lunch payment prescribed in paragraph (2) of this section.

(2) The national average lunch payment for each lunch served shall be 10.5 cents (as adjusted pursuant to section 11(a) of this Act) except that for each lunch served in school food authorities in which 60 percent or more of the lunches served in the school lunch program during the second preceding school year were served free or at a reduced-price, the national average lunch payment shall be 2 cents more.

SEC. 5. (Reserved) ⁶

DIRECT FEDERAL EXPENDITURES

SEC. 6.⁷ (a) ⁸ The funds provided by appropriation or transfer from other accounts for any fiscal year for carrying out the provisions of this Act, and for carrying out the provisions of the Child Nutrition Act of 1966, other than section 3 thereof, less—

⁵ Section 4 was substantially amended by P.L. 92-433, 86 Stat. 726, Sept. 26, 1972, effective July 1, 1973. The initial provisions for apportionment of funds among the States were amended by P.L. 82-518, 66 Stat. 591, July 12, 1952, to change apportionments to territories and possessions: P.L. 87-689, 76 Stat. 587, Sept. 25, 1962, to include American Samoa; and P.L. 87-823, 76 Stat. 944, Oct. 15, 1962, to change the apportionment factors, specify transitional formulas, and make several other changes. Section 201(a) of P.L. 96-499, 94 Stat. 2599, Dec. 5, 1980, reduced for fiscal year 1981 the national average payment per lunch provided from general cash assistance funds by 2½ cents for any school food authority under which less than 60 percent of the lunches were served free or at a reduced price during the second preceding school year. Section 4 was again substantially amended by P.L. 97-35, 95 Stat. 521, Aug. 13, 1981 effective September 1, 1981. Section 801 of P.L. 97-35 added an "(a)" after "Sec. 4." and eliminated the reference to section 5 and the language which authorized the Secretary to establish a national average payment factor for lunches "determined by the Secretary to be necessary to carry out the purposes of this act". Subsection (b) was added, which fixed the national average lunch payment at 10.5 cents (adjusted annually) and 2 cents per lunch more for schools which in the second preceding school year served 60 percent or more of the lunches in the program free or at a reduced price.

⁶ Section 5, which authorized the food service equipment assistance program, was repealed by section 805 of P.L. 97-35, 95 Stat. 527, Aug. 13, 1981.

⁷ Section 6 was amended by P.L. 87-823, 76 Stat. 945, Oct. 15, 1962, to refer to section 11; and P.L. 90-302, 82 Stat. 117, May 8, 1968, to refer to section 13, P.L. 91-248, 84 Stat. 209, May 14, 1970, substituted the first sentence for provisions appearing earlier, adding, in particular, references to the Child Nutrition Act of 1966 and the use of funds for nutritional training and education and for surveys and studies. P.L. 95-166, 91 Stat. 1335, 1336, Nov. 10, 1977, added the choice of commodities option for not more than 20 percent of commodities tendered to a school and the authorization of funds for pilot projects and studies under the new section 20 of this Act.

⁸ This paragraph was designated subsection (a) by P.L. 93-13, 87 Stat. 10, March 30, 1973.

(1) not to exceed 3½ per centum thereof which per centum is hereby made available to the Secretary for his administrative expenses under this Act and under the Child Nutrition Act of 1966;

(2) the amount apportioned by him pursuant to section 4 of this Act and the amount appropriated pursuant to sections 11 and 13 of this Act and sections 4 and 7 of the Child Nutrition Act of 1966; and ⁹

(3) not to exceed 1 per centum of the funds provided for carrying out the programs under this Act and the programs under the Child Nutrition Act of 1966, other than section 3, which per centum is hereby made available to the Secretary to supplement the nutritional benefits of these programs through grants to states and other means for nutritional training and education for workers, cooperators, and participants in these programs, for pilot projects and the cash-in-lieu of commodities study required to be carried out under section 20 of this Act, and for necessary surveys and studies of requirements for food service programs in furtherance of the purposes expressed in section 2 of this Act and section 2 of the Child Nutrition Act of 1966, shall be available to the Secretary during such year for direct expenditure by him for agricultural commodities and other foods to be distributed among the States and schools and service institutions participating in the food service programs under this Act and under the Child Nutrition Act of 1966 in accordance with the needs as determined by the local school and service institution authorities.¹⁰ Any school participating in food service programs under this Act may refuse to accept delivery of not more than 20 percent of the total value of agricultural commodities and other foods tendered to it in any school year; and if a school so refuses, that school may receive, in lieu of the refused commodities, other commodities to the extent that other commodities are available to the State during that year. The provisions of law contained in the proviso of the Act of June 28, 1937 (50 Stat. 323), facilitating operations with respect to the purchase and disposition of surplus agricultural commodities under section 32 of the Act approved August 24, 1935 (49 Stat. 774), as amended, shall, to the extent not inconsistent with the provisions of this Act, also be applicable to expenditures of funds by the Secretary under this Act. In making purchases of such agricultural commodities and other foods, the Secretary shall not issue specifications which restrict participation of local producers unless such specifications will result in significant advantages to the food service programs authorized by this Act and the Child Nutrition Act of 1966.¹¹

(b) ¹² Not later than May 15 of each school year, the Secretary shall make an estimate of the value of agricultural commodities

⁹ Section 819 of P.L. 97-35, 95 Stat. 533, Aug. 13, 1981 removed references to sections 5 of the National School Lunch Act and the Child Nutrition Act of 1966.

¹⁰ See section 404 of the Agricultural Act of 1949, as amended, authorizing the use of the services and facilities of Commodity Credit Corporation in carrying out programs under section 6.

¹¹ This sentence was added by P.L. 94-105, 89 Stat. 515, Oct. 7, 1975.

¹² This subsection was completely revised by P.L. 95-166, 91 Stat. 1334, Nov. 10, 1977.

and other foods that will be delivered during that school year to States for the school lunch program. If such estimated value is less than the total level of assistance authorized under subsection (e) of this section, the Secretary shall pay to each State educational agency, not later than June 15 of that school year, an amount of funds that is equal to the difference between the value of such deliveries as then programed for such State and the total level of assistance authorized under subsection (e) of this section. In any State in which the Secretary directly administers the school lunch program in any of the schools of the State, the Secretary shall withhold from the funds to be paid to such State under the provisions of this subsection an amount that bears the same ratio to the total of such payment as the number of lunches served in schools in which the school lunch program is directly administered by the Secretary during that school year bears to the total of such lunches served under the school lunch program in all the schools in such State in such school year. Each State educational agency, and the Secretary in the case of private schools in which the Secretary directly administers the school lunch program, shall promptly and equitably disburse such funds to schools participating in the school lunch program, and such disbursements shall be used by such schools to purchase United States agricultural commodities and other foods for their food service program. Such foods shall be limited to the requirements for lunches and breakfasts for children as provided for in regulations issued by the Secretary.

(c) ¹³ Notwithstanding any other provision of law, the Secretary, until such time as a supplemental appropriation may provide additional funds for the purpose of subsection (b) of this section, shall use funds appropriated by section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) to make any payments to States authorized under such subsection. Any section 32 funds utilized to make such payments shall be reimbursed out of any supplemental appropriation hereafter enacted for the purpose of carrying out subsection (b) of this section and such reimbursement shall be deposited into the fund established pursuant to section 32 of the Act of August 24, 1935, to be available for the purposes of said section 32.

(d) ¹⁴ Any funds made available under subsection (b) or (c) of this section shall not be subject to the State matching provisions of section 7 of this Act.

LEVEL OF COMMODITY ASSISTANCE

(e) ¹⁵ The national average value of donated foods, or cash payments in lieu thereof, shall be 11 cents, adjusted on July 1, 1982, and each July 1 thereafter to reflect changes in the Price Index for Food Used in Schools and Institutions. The Index shall be comput-

¹³ These subsections were substituted by P.L. 93-150, 87 Stat. 562, 563, Nov. 7, 1973, for similar provisions, effective for the fiscal year 1973, added to section 6 by P.L. 93-13, 87 Stat. 10, 11, March 30, 1973. P.L. 94-105, 89 Stat. 511, Oct. 7, 1975, deleted references to "nonprofit private" schools in subsection (b).

¹⁴ See footnote 18, *supra*.

¹⁵ Subsection (e) added by P.L. 93-326, 88 Stat. 286, June 30, 1974. P.L. 95-166, 91 Stat. 1345, Nov. 10, 1977. Section 202(a), P.L. 96-499, 94 Stat. 2600, Dec. 5, 1980, reduced for fiscal year 1981 the national average value of donated foods or cash payments by 2 cents. Section 802 of P.L. 97-35, 95 Stat. 524, Aug. 13, 1981, amended the first sentence to fix the national average value of donated foods or cash payments at 11 cents, adjusted July 1, 1982 and annually thereafter.

ed using five major food components in the Bureau of Labor Statistics' Producer Price Index (cereal and bakery products, meats, poultry and fish, dairy products, processed fruits and vegetables, and fats and oils). Each component shall be weighted using the same relative weight as determined by the Bureau of Labor Statistics. The value of food assistance for each meal shall be adjusted each July 1 by the annual percentage change in a three-month simple average value of the Price Index for Foods Used in Schools and Institutions for March, April, and May each year.¹⁶ Such adjustment shall be computed to the nearest one-fourth cent. Among those commodities delivered under this section, the Secretary shall give special emphasis to high protein foods, meat, and meat alternates (which may include domestic seafood commodities and their products).¹⁷ Notwithstanding any other provision of this section, not less than 75 per centum of the assistance provided under this subsection (e) shall be in the form of donated foods for the school lunch program.¹⁸

(f)¹⁹ Beginning with the school year ending June 30, 1981, the Secretary shall not offer commodity assistance based upon the number of breakfasts served to children under section 4 of the Child Nutrition Act of 1966. (42 U.S.C. 1755.)

PAYMENTS TO STATES

SEC. 7.²⁰ (a)(1) Funds appropriated to carry out section 4 of this Act during any fiscal year shall be available for payment to the States for disbursement by State educational agencies in accordance with such agreements, not inconsistent with the provisions of this Act, as may be entered into by the Secretary and such State educational agencies for the purpose of assisting schools within the States in obtaining agricultural commodities and other foods for consumption by children in furtherance of the school lunch program authorized under this Act. For any school year, the amount of the State revenues (excluding State revenues derived from the operation of the program) appropriated or used specifically for program purposes (other than any State revenues expended for salaries and administrative expenses of the program at the State level) is not less than 30 percent of the funds made available to such State under section 4 of this Act for the school year beginning July 1, 1980.

(2) If, for any school year, the per capita income of a State is less than the average per capita income of all the States, the amount required to be expended by a State under paragraph (1) for such

¹⁶ Section 5(b) of P.L. 95-627, 92 Stat. 3619, Nov. 10, 1978 (effective July 1, 1979) amended subsection (e) by deleting from the first sentence "the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor." and inserting in lieu thereof "the Price Index for Food Used in Schools and Institutions. The Index shall be computed using five major food components . . ." and all of the material down through the end of the fourth sentence.

¹⁷ Added by section 12(a) of P.L. 95-627, 92 Stat. 3625, Nov. 10, 1978, which provides as follows: "SEC. 12. (a) Section 6(e) of the National School Lunch Act is amended by inserting in the second [sic] sentence '(which may include domestic seafood commodities and their products)' after 'alternatives' [sic]."

¹⁸ This sentence was added by P.L. 94-105, 89 Stat. 515, Oct. 7, 1975.

¹⁹ Subsection (f) was added by section 202(b) of P.L. 96-499, 94 Stat. 2600, Dec. 5, 1980, to discontinue inclusion of breakfasts in the determination of commodity entitlements.

²⁰ This section was completely revised by sec. 804 of P.L. 97-35, 95 Stat. 526, Aug. 13, 1981.

year shall be an amount bearing the same ratio to the amount equal to 30 percent of the funds made available to such State under section 4 of the Act for the school year beginning July 1, 1980, as the per capita income of such State bears to the average per capita income of all the States.

(b) The State revenues provided by any State to meet the requirement of subsection (a) shall, to the extent the State deems practicable, be disbursed to schools participating in the school lunch program under this Act. No State in which the State educational agency is prohibited by law from disbursing State appropriated funds to private schools shall be required to match Federal funds made available for meals served in such schools, or to disburse, to such schools, any of the State revenues required to meet the requirements of subsection (a).

(c) The Secretary shall certify to the Secretary of the Treasury, from time to time, the amounts to be paid to any State under this section and shall specify when such payments are to be made. The Secretary of the Treasury shall pay to the State, at the time or times fixed by the Secretary, the amounts so certified.

STATE DISBURSEMENT TO SCHOOLS

SEC. 8. Funds²¹ paid to any State during any fiscal year pursuant to section 4 shall be disbursed by the State educational agency, in accordance with such agreements approved by the Secretary as may be entered into by such State agency and the schools in the State, to those schools in the State which the State educational agency, taking into account need and attendance, determines are eligible to participate in the school-lunch program. Such disbursement to any school shall be made only for the purpose of assisting it to obtain agricultural commodities and other foods for consumption by children in the school-lunch program.²² The terms "child" and "children" as used in this Act shall be deemed to include persons regardless of age who are determined by the State educational agency, in accordance with regulations prescribed by the Secretary, to be mentally or physically handicapped and who are attending any child care institution as defined in section 17 of this Act or any nonresidential public or nonprofit private school of high school grade or under for the purpose of participating in a school program established for mentally or physically handicapped: *Provided*, That no institution that is not otherwise eligible to participate in the program under section 17 of this Act shall be deemed so eligible because of this sentence.²³ Such food costs may include, in addition to the purchase price of agricultural commodities and other foods, the cost of processing, distributing, transporting, storing, or handling thereof. In no event shall such disbursement for food to any school for any fiscal year exceed an amount determined by multiplying the number of lunches served in the school in the school-lunch program under this Act during such year by the maximum

²¹ Section 819 of P.L. 97-35, 95 Stat. 533, Aug. 13, 1981, eliminated the reference to section 5.

²² P.L. 92-433, 86 Stat. 729, Sept. 26, 1972, substituted the phrase "assisting it to finance" for "reimbursing it for". Section 819 of P.L. 97-35, 95 Stat. 533, Aug. 13, 1981, amended this sentence by substituting the phrase "to obtain" for "to finance the cost of obtaining" and eliminated a reference to the food service equipment program.

²³ This sentence was added by section 10(d)(1) of P.L. 95-627, 92 Stat. 3624, Nov. 10, 1978.

per meal reimbursement rate for the State, for the type of lunch served, as prescribed by the Secretary.²⁴ In any fiscal year in which the national average payment per lunch determined under section 4 is increased above the amount prescribed in the previous fiscal year, the maximum per meal reimbursement rate for the type of lunch served, shall be increased by a like amount.^{24a} Lunch assistance disbursements to schools under this section and under section 11 of this Act may be made in advance or by way of reimbursement in accordance with procedures prescribed by the Secretary.²⁵ (42 U.S.C. 1757.)

NUTRITIONAL AND OTHER PROGRAM REQUIREMENTS

SEC. 9.²⁶ (a) Lunches served by schools participating in the school-lunch program under this Act shall meet minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research; except that such minimum nutritional requirements shall not be construed to prohibit the substitution of foods to accommodate the medical or other special dietary needs of individual students.²⁷ The Secretary shall establish, in cooperation with State educational agencies, administrative procedures, which shall include local educational agency and student participation, designed to diminish waste of foods which are served by schools participating in the school lunch program under this Act without endangering the nutritional integrity of the lunches served by such schools. Students in senior high schools that participate in the school lunch program under this Act (and, when approved by the local school district or nonprofit private schools, students in any other grade level²⁸) shall not be required to accept offered foods they do not intend to consume, and any such failure to accept offered foods shall not affect the full charge to the student for a lunch meeting the requirements of this subsection or the amount of payments made under this Act to any such school for such lunch.

(b)(1)(A)²⁹ Not later than June 1 of each fiscal year, the Secretary shall prescribe income guidelines for determining eligibility for free and reduced-price lunches during the 12-month period be-

²⁴ Section 819 of P.L. 97-35, 95 Stat. 533, Aug. 13, 1981, amended this sentence by substituting the phrase "per meal reimbursement rate" for "Federal food cost contribution rate".

^{24a} This sentence was added by P.L. 93-150, 87 Stat. 560, Nov. 7, 1973. Section 819 of P.L. 97-35, 95 Stat. 533, Aug. 13, 1981, amended this sentence by substituting the phrase "per meal reimbursement rate" for "Federal food-cost contribution rate".

²⁵ This sentence was added by P.L. 92-433, 86 Stat. 729, Sept. 26, 1972.

²⁶ Section 9 was substantially amended by P.L. 91-248, 84 Stat. 210, May 14, 1970. Among changes made were those which provided for determination of eligibility for free and reduced-price lunches on the basis of publicly announced criteria and for establishment by the Secretary of income poverty guidelines with free or reduced-price lunches for children from families with an annual income below such guidelines. P.L. 92-433, 86 Stat. 726, Sept. 26, 1972, designated the subsections; substituted new wording for (b) requiring that children from households whose income is not above the applicable family size income level in the Secretary's income poverty guidelines be served a free lunch and that State educational agencies prescribe income guidelines by family size to be used by schools in the State in determining eligibility for free and reduced-price lunches; and amended (c) to extend the provisions with respect to certain nonprofit private schools to all such schools. P.L. 94-105, 89 Stat. 512, Oct. 7, 1975, amended and expanded this section to make reduced-price meals more widely available, to provide for the reduction of food waste in high schools, and for other purposes.

²⁷ Exception added by P.L. 90-302, 82 Stat. 117, May 8, 1968.

²⁸ Section 811 of P.L. 97-35, 95 Stat. 529, Aug. 13, 1981, eliminated the words "in any junior high school or middle school".

²⁹ Subsection (b) was completely revised by section 803 of P.L. 97-35, 95 Stat. 524, Aug. 13, 1981.

ginning July 1 of such fiscal year and ending June 30 of the following fiscal year. For the school years ending June 30, 1982, and June 30, 1983, the income guidelines for determining eligibility for free lunches shall be 130 percent of the applicable family-size income levels contained in the nonfarm income poverty guidelines prescribed by the Office of Management and Budget, as adjusted annually in accordance with subparagraph (B). Beginning July 1, 1983, the income guidelines for determining eligibility for free lunches for any school year shall be the same as the gross income eligibility standards announced by the Secretary for any such period for eligibility for participation in the food stamp program under the Food Stamp Act of 1977. The income guidelines for determining eligibility for reduced-price lunches for any school year shall be 185 percent of the applicable family-size income levels contained in the nonfarm income poverty guidelines prescribed by the Office of Management and Budget, as adjusted annually in accordance with subparagraph (B). The Office of Management and Budget guidelines shall be revised at annual intervals, or at any shorter interval deemed feasible and desirable.

(B) The revision required by subparagraph (A) of this paragraph shall be made by multiplying—

- (i) the official poverty line (as defined by the Office of Management and Budget); by
- (ii) the percentage change in the Consumer Price Index during the annual or other interval immediately preceding the time at which the adjustment is made.

Revisions under this subparagraph shall be made not more than 30 days after the date on which the consumer price index data required to compute the adjustment becomes available.

(2)(A) Following the determination by the Secretary under paragraph (1) of this subsection of the income eligibility guidelines for each school year, each State educational agency shall announce the income eligibility guidelines, by family-size, to be used by schools in the State in making determinations of eligibility for free and reduced-price lunches. Local school authorities shall, each year, publicly announce the income eligibility guidelines for free and reduced-price lunches on or before the opening of school.

(B) Applications for free and reduced-price lunches, in such form as the Secretary may prescribe or approve, and any descriptive material, shall be distributed to the parents or guardians of children in attendance at the school, and shall contain only the family-size income levels for reduced-price meal eligibility with the explanation that households with incomes less than or equal to these values would be eligible for free or reduced-price lunches. Such forms and descriptive material may not contain the income eligibility guidelines for free lunches.

(C) Eligibility determinations shall be made on the basis of a complete application executed by an adult member of the household. The Secretary, States, and local school food authorities may seek verification of the data contained in the application. Local school food authorities shall undertake such verification of the information contained in these applications as the Secretary may by regulation prescribe and, in accordance with such regulations,

make appropriate changes in the eligibility determinations on the basis of such verification.

(3) Any child who is a member of a household whose income, at the time the application is submitted, is at an annual rate which does not exceed the applicable family-size income level of the income eligibility guidelines for free lunches, as determined under paragraph (1), shall be served a free lunch. Any child who is a member of a household whose income, at the time the application is submitted, is at an annual rate greater than the applicable family-size income level of the income eligibility guidelines for free lunches, as determined under paragraph (1), but less than or equal to the applicable family-size income level of the income eligibility guidelines for reduced-price lunches, as determined under paragraph (1), shall be served a reduced-price lunch. The price charged for a reduced-price lunch shall not exceed 40 cents.

(4) No physical segregation of or other discrimination against any child eligible for a free lunch or a reduced-price lunch under this subsection shall be made by the school nor shall there be any overt identification of any child by special tokens or tickets, announced or published lists of names, or by other means.

(5)³⁰ Any child who has a parent or guardian who (A) is responsible for the principal support of such child and (B) is unemployed shall be served a free or reduced price lunch, respectively, during any period (i) in which such child's parent or guardian continues to be unemployed and (ii) the income of the child's parents or guardians during such period of unemployment falls within the income eligibility criteria for free lunches or reduced price lunches, respectively, based on the current rate of income of such parents or guardians. Local school authorities shall publicly announce that such children are eligible for a free or reduced price lunch, and shall make determinations with respect to the status of any parent or guardian of any child under clauses (A) and (B) of the preceding sentence³¹ on the basis of a statement executed in such form as the Secretary may prescribe by such parent or guardian. No physical segregation of, or other discrimination against, any child eligible for a free or reduced price lunch under this paragraph shall be made by the school nor shall there be any overt identification of any such child by special tokens or tickets, announced or published lists of names, or by any other means.

(c) School-lunch programs under this Act shall be operated on a nonprofit basis. Each school shall, insofar as practicable, utilize in its lunch program commodities designated from time to time by the Secretary as being in abundance, either nationally or in the school area, or commodities donated by the Secretary. Commodities purchased under the authority of section 32 of the Act of August 24, 1935 (49 Stat. 774), as amended, may be donated by the Secretary to schools, in accordance with the needs as determined by local school authorities, for utilization in the school-lunch program under this Act as well as to other schools carrying out nonprofit school-lunch programs and institutions authorized to receive such

³⁰ This paragraph was amended by Public Law 94-105, 89 Stat. 513, Oct. 7, 1975.

³¹ Section 803(a) of P.L. 97-35, 95 Stat. 525, Aug. 13, 1981 eliminated the word "solely" from this sentence.

commodities. The Secretary is authorized to prescribe terms and conditions respecting the use of commodities donated under such section 32, under section 416 of the Agricultural Act of 1949, as amended, and under section 709 of the Food and Agriculture Act of 1965, as amended, as will maximize the nutritional and financial contributions of such donated commodities in such schools and institutions. The requirements of this section relating to the service of meals without cost or at a reduced cost shall apply to the lunch program of any school utilizing commodities donated under any of the provisions of law referred to in the preceding sentence. None of the requirements of this section in respect to the amount for "reduced cost" meals and to eligibility for meals without cost shall apply to schools (as defined in section 12(d)(6) of this Act which are private and nonprofit as defined in the last sentence of section 12(d)(6) of this Act)³² which participate in the school-lunch program under this Act until such time as the State educational agency, or in the case of such schools which participate under the provisions of section 10 of this Act the Secretary certifies that sufficient funds from sources other than children's payments are available to enable such schools to meet these requirements.

(d)(1)³³ The Secretary shall require as a condition of eligibility for receipt of free or reduced-price lunches that the member of the household who executes the application furnish the social security account numbers of all adult members of the household of which such person is a member.

(2) No member of a household may be provided a free or reduced-price lunch under this Act unless—

(A) appropriate documentation, as prescribed by the Secretary, of the income of such household has been provided to the appropriate local school food authority; or

(B) documentation showing that the household is participating in the food stamp program under the Food Stamp Act of 1977 has been provided to the appropriate local school food authority. (42 U.S.C. 1758.)

DISBURSEMENT TO SCHOOLS BY THE SECRETARY

SEC. 10.³⁴ (a) The Secretary shall withhold funds payable to a State under this Act and disburse the funds directly to schools, institutions, or service institutions within the State for the purposes authorized by this Act to the extent that the Secretary has so withheld and disbursed such funds continuously since October 1, 1980, but only to such extent (except as otherwise required by subsection (b)). Any funds so withheld and disbursed by the Secretary shall be used for the same purposes, and shall be subject to the same conditions, as applicable to a State disbursing funds made available under this Act. If the Secretary is administering (in whole or in part) any program authorized under this Act, the State in which the Secretary is administering the program may, upon request to the Secretary, assume administration of that program.

³² Subsection (c) was amended by P.L. 94-105, 89 Stat. 514, Oct. 7, 1975, to refer to amended definition of "school".

³³ Subsection (d) was added by section 803(b) of P.L. 97-35, 95 Stat. 531, Aug. 13, 1981.

³⁴ Section 10 was completely revised by section 817 of P.L. 97-35, 95 Stat. 531, Aug. 13, 1981.

(b) If a State educational agency is not permitted by law to disburse the funds paid to it under this Act to any of the nonpublic schools in the State, the Secretary shall disburse the funds directly to such schools within the State for the same purposes and subject to the same conditions as are authorized or required with respect to the disbursements to public schools within the State by the State educational agency. (42 U.S.C. 1759.)

SPECIAL ASSISTANCE

SEC. 11.³⁵ (a)(1) Except as provided in section 10 of this Act, in each fiscal year each State educational agency shall receive special-assistance payments in an amount equal to the sum of the product obtained by multiplying the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary pursuant to subsection 9(a) of this Act) served free to children eligible for such lunches in schools within that State during such fiscal year by the special-assistance factor for free lunches prescribed by the Secretary for such fiscal year and the product obtained by multiplying the number of lunches served at a reduced price to children eligible for such reduced-price lunches in schools within that State during such fiscal year by the special-assistance factor for reduced-price lunches prescribed by the Secretary for such fiscal year. In the case of any school which determines that at least 80 percent of the children in attendance during a school year (hereinafter in this sentence referred to as the "first school year") are eligible for free lunches or reduced-price lunches, special-assistance payments shall be paid to the State educational agency with respect to that school, if that school so requests for the school year following the first school year, on the basis of the number of free lunches or reduced-price lunches, as the case may be, that are served by that school during the school year for which the request is made, to those children who were determined to be so eligible in the first school year and the number of free lunches and reduced-price lunches served during that year to other children determined for that year to be eligible for such lunches. In the case of any school that (A) elects to serve all children in that school free lunches under the school lunch program during any period of three successive school years and (B) pays, from sources other than Federal funds, for the costs of serving such lunches which are in excess of the value of assistance received under this Act with respect to the number of lunches served during the period, special-assistance payments shall be paid to the State educational agency with respect to that school during that period on the basis of the number of lunches determined

³⁵ Section 11 was extensively amended by P.L. 93-150, 87 Stat. 561, Nov. 7, 1973. As inserted by P.L. 87-823, 76 Stat. 946, Oct. 15, 1962, the section provided an apportionment formula. Amendments made by P.L. 91-248, 84 Stat. 211, May 14, 1970, deleted provisions limiting special assistance to schools drawing attendance from areas in which poor economic conditions exist, based the apportionment of funds upon number of children instead of number of lunches, and deleted provisions relating to the selection of schools on the basis of economic factors. P.L. 92-153, 85 Stat. 420, Nov. 5, 1971, added provisions for a base factor of 40 cents for free lunches and 40 cents, less the highest reduced price charged, for reduced price lunches. Section 801 of P.L. 97-35, 95 Stat. 521, Aug. 13, 1981, amended this section by redesignating subsection (a) as (a)(1) and clauses (1) and (2) as (A) and (B) respectively, and deleting obsolete language concerning adjustments of rates.

under the succeeding sentence. For purposes of making special-assistance payments in accordance with the preceding sentence, the number of lunches served by a school to children eligible for free lunches and reduced-price lunches during each school year of the three-school-year period shall be deemed to be the number of lunches served by that school to children eligible for free lunches and reduced-price lunches during the first school year of such period, unless that school elects, for purposes of computing the amount of such payments to determine on a more frequent basis the number of children eligible for free and reduced-price lunches who are served lunches during such period.

(2)³⁶ The special-assistance factor prescribed by the Secretary for free lunches shall be 98.75 cents and the special-assistance factor for reduced-price lunches shall be 40 cents less than the special-assistance factor for free lunches.

(3)(A) The Secretary shall prescribe on July 1, 1982, and on each subsequent July 1, an annual adjustment in the following:

(i) The national average payment rates for lunches (as established under section 4 of this Act).

(ii) The special assistance factor for lunches (as established under paragraph (2) of this subsection).

(iii) The national average payment rates for breakfasts (as established under section 4(b) of the Child Nutrition Act of 1966).

(iv) The national average payment rates for supplements (as established under section 17(c) of this Act).

(B) The annual adjustment under this paragraph shall reflect changes in the cost of operating meal programs under this Act and the Child Nutrition Act of 1966, as indicated by the change in the series for food away from home of the Consumer Price Index for all Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor. Each annual adjustment shall reflect the changes in the series for food away from home for the most recent 12-month period for which such data are available. The adjustments made under this paragraph shall be computed to the nearest one-fourth cent.

(b) Except as provided in section 10 of the Child Nutrition Act of 1966, the special-assistance payments made to each State agency during each fiscal year under the provisions of this section shall be used by such State agency to assist schools of that State in³⁷ providing free and reduced-price lunches served to children pursuant to subsection 9(b) of this Act. The amount of such special assistance funds that a school shall from time to time receive, within a maximum per lunch amount established by the Secretary for all States, shall be based on the need of the school for such special assistance. Such maximum per lunch amount established by the Secretary shall not be less than 60 cents.

³⁶ Subsections (a)(2) and (a)(3) were added by section 801 of P.L. 97-35, 95 Stat. 522, Aug. 13, 1981.

³⁷ Section 819 of P.L. 97-35, 95 Stat. 533, Aug. 13, 1981 removed the words "financing the cost of".

(c) Special assistance payments to any State under this section shall be made as provided in the last sentence of section 7 of this Act.

(d) ³⁸ In carrying out this section, the terms and conditions governing the operation of the school lunch program set forth in other sections of this Act, including those applicable to funds apportioned or paid pursuant to section 4 or 5 but excluding the provision of section 7 relating to matching, shall be applicable to the extent they are not inconsistent with the express requirements of this section.

(e) ³⁹ (1) ⁴⁰ Each school participating in the school-lunch program under this Act shall report each month to its State educational agency the average number of children in the school who received free lunches and the average number of children who received reduced price lunches during the immediately preceding month.

(2) ⁴⁰ The State educational agency of each State shall report to the Secretary each month the average number of children in the State who received free lunches and the average number of children in the State who received reduced price lunches during the immediately preceding month.

(f) ⁴¹ Commodity only schools shall also be eligible for special-assistance payments under this section. Such schools shall serve meals free to children who meet the eligibility requirements for free meals under section 9(b) of this Act, and shall serve meals at a reduced price, not exceeding the price specified in section 9(b)(3) of this Act, to children meeting the eligibility requirements for reduced-price meals under such section. No physical segregation of, or other discrimination against, any child eligible for a free or reduced-priced lunch shall be made by the school, nor shall there be any overt identification of any such child by any means.

MISCELLANEOUS PROVISIONS AND DEFINITIONS

SEC. 12. ⁴² (a) States, State educational agencies, and schools participating in the school-lunch program under this Act shall keep such accounts and records as may be necessary to enable the Secretary to determine whether the provisions of this Act are being complied with. Such accounts and records shall at all times be available for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of five years, as the Secretary determines is necessary.

(b) The Secretary shall incorporate, in his agreements with the State educational agencies, the express requirements under this Act with respect to the operation of the school-lunch program

³⁸ This subsection was changed from (g) to (d) by P.L. 93-150, 87 Stat. 561, Nov. 7, 1973.

³⁹ Added by P.L. 91-248, 84 Stat. 212, May 14, 1970, and changed from (h) to (e) by P.L. 93-150, 87 Stat. 561, Nov. 7, 1973. P.L. 94-105, 89 Stat. 514, Oct. 7, 1975, amended this subsection to change planning from a fiscal to a school year basis, and placed the date of the plans' submission at the discretion of the Secretary. This section was amended by section 812 of P.L. 97-35, 95 Stat. 530, Aug. 13, 1981 to eliminate former paragraph 1 which required that States file State plans.

⁴⁰ Sec. 812 of P.L. 97-35, 95 Stat. 530, Aug. 13, 1981, redesignated paragraphs (2) and (3) to (1) and (2) respectively and eliminated the requirement that schools and States provide an estimate of the number of children eligible for free or reduced meals.

⁴¹ This subsection was added by section 813 of P.L. 97-35, 95 Stat. 530, Aug. 13, 1981.

⁴² Section 12 was section 11 until renumbered by P.L. 87-823, 76 Stat. 945, Oct. 15, 1962.

under this Act insofar as they may be applicable and such other provisions as in his opinion are reasonably necessary or appropriate to effectuate the purposes of this Act.

(c) ⁴³ In carrying out the provisions of this Act, neither the Secretary nor the State shall impose any requirement with respect to teaching personnel, curriculum, instruction, methods of instruction, and materials or instruction in any school.

(d) ⁴⁴ For the purposes of this Act—

(1) ⁴⁵ "State" means any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or the Trust Territory of the Pacific Islands.

(2) ⁴⁶ "State educational agency" means, as the State legislature may determine, (A) the chief State school officer (such as the State superintendent of public instruction, commissioner of education, or similar officer), or (B) a board of education controlling the State department of education; except that in the District of Columbia it shall mean the Board of Education.

(3) ⁴⁷ "Participation rate" for a State means a number equal to the number of lunches, consisting of a combination of foods and meeting the minimum requirements prescribed by the Secretary pursuant to section 9, served in the fiscal year beginning two years immediately prior to the fiscal year for which the Federal funds are appropriated by schools participating in the program under this Act in the State, as determined by the Secretary.

(4) ⁴⁸ "Assistance need rate" (A) in the case of any State having an average annual per capita income equal to or greater than the average annual per capita income for all the States, shall be 5; and (B) in the case of any State having an average annual per capita income less than the average annual per capita income for all the States, shall be the product of 5 and the quotient obtained by dividing the average annual per capita income for all the States by the average annual per capita income for such State, except that such product may not exceed 9 for any such State. For the purposes of this paragraph (i) the average annual per capita income for any State and for all the States shall be determined by the Secretary on the basis of the average annual per capita income for each State and for all the States for the three most recent years for which such data are available and certified to the Secretary by the Department of Commerce; and (ii) the average annual per capita income for American Samoa shall be disregarded in determining

⁴³ P.L. 87-823, 76 Stat. 945, Oct. 15, 1962, deleted a requirement of equitable distribution of funds in States maintaining separate schools for minority and majority races.

⁴⁴ P.L. 94-105, 89 Stat. 514, Oct. 7, 1975, deleted a definition of "nonprofit private school" and renumbered paragraphs 3-6.

⁴⁵ Amended by P.L. 82-518, 66 Stat. 591, July 12, 1952, to include Guam; P.L. 87-688, 76 Stat. 587, Sept. 25, 1962, to include American Samoa; P.L. 87-823, 76 Stat. 945, Oct. 15, 1962, to recognize Alaskan and Hawaiian statehood; and by P.L. 94-105, 89 Stat. 514, Oct. 7, 1975, to include the Trust Territory of the Pacific Islands.

⁴⁶ P.L. 87-823, 76 Stat. 945, Oct. 15, 1962, deleted an exception applicable to the District of Columbia and obsolete language.

⁴⁷ P.L. 87-823, 76 Stat. 945, Oct. 15, 1962, added this paragraph. P.L. 91-248, 84 Stat. 207, May 14, 1970, provided for the use of data from a different fiscal year. Section 819 of P.L. 97-35, 95 Stat. 533, Aug. 13, 1981 changed this paragraph from (4) to (3) and eliminated the preceding paragraph that referred to food service equipment.

⁴⁸ Added by P.L. 87-823, 76 Stat. 945, Oct. 15, 1962. Changed to (4) from (5) by section 819 of P.L. 97-35, 95 Stat. 533, Aug. 13, 1981.

the average annual per capita income for all the States for periods ending before July 1, 1967.

(5)⁴⁹ "School" means (A) any public or nonprofit private school of high school grade or under, except private schools whose average yearly tuition exceeds \$1,500 per child, (B) any public or licensed nonprofit private residential child care institution (including, but not limited to, orphanages and homes for the mentally retarded, but excluding Job Corp Centers funded by the Department of Labor), and (C) with respect to the Commonwealth of Puerto Rico, non-profit child care centers certified as such by the Governor of Puerto Rico. For purposes of clauses (A) and (B) of this paragraph, the term "nonprofit," when applied to any such private school or institution, means any such school or institution which is exempt from tax under section 501(c)(3) of the Internal Revenue Code of 1954.

(6)⁵⁰ "School year" means the annual period from July 1 through June 30.

(7)⁵¹ "Commodity only schools" means schools that do not participate in the school lunch program under this Act, but which receive commodities made available by the Secretary for use by such schools in nonprofit lunch programs.

(e)⁵² The value of assistance to children under this Act shall not be considered to be income or resources for any purposes under any Federal or State laws, including laws relating to taxation and welfare and public assistance programs.

(f)⁵³ In providing assistance for school breakfasts and lunches served in Alaska, Hawaii, Guam, American Samoa, Puerto Rico, the Virgin Islands of the United States, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands, the Secretary may establish appropriate adjustments for each such State to the national average payment rates prescribed under sections 4 and 11 of this Act and section 4 of the Child Nutrition Act of 1966, to reflect the differences between the costs of providing lunches and breakfasts in those States and the costs of providing lunches and breakfasts in all other States.

(g)⁵⁴ Whoever embezzles, willfully misapplies, steals, or obtains by fraud any funds, assets, or property that are the subject of a grant or other form of assistance under this Act or the Child Nutrition Act of 1966, whether received directly or indirectly from the United States Department of Agriculture, or whoever receives, conceals, or retains such funds, assets, or property to his use or gain, knowing such funds, assets, or property have been embezzled, willfully misapplied, stolen, or obtained by fraud shall, if such funds, assets, or property are of the value of \$100 or more, be fined not

⁴⁹ This definition was transferred from section 4 by P.L. 87-823, 76 Stat. 946, Oct. 15, 1962. P.L. 94-105, 89 Stat. 514, Oct. 7, 1975, expanded this definition to include nonprofit private residential child care institutions. P.L. 96-499, 94 Stat. 2601, Dec. 5, 1980, amended this definition to exclude Job Corp Centers funded by the Department of Labor. Section 808 of P.L. 97-35, 95 Stat. 527, Aug. 13, 1981 changed the definition to exclude private schools whose average yearly tuition exceeds \$1,500.00 per child.

⁵⁰ This definition was added by section 12(b), P.L. 95-627, 92 Stat. 3624, Nov. 10, 1978 and the paragraph changed from (7) to (6) by section 819 of P.L. 97-35, 95 Stat. 533, Aug. 13, 1981.

⁵¹ This definition was added by section 813, P.L. 97-35, 95 Stat. 530, Aug. 13, 1981.

⁵² This subsection was added by P.L. 94-105, 89 Stat. 515, Oct. 7, 1975.

⁵³ This subsection was added by section 10(a) of P.L. 95-627, 92 Stat. 3623, Nov. 10, 1978.

⁵⁴ See footnote 53, *supra*.

more than \$10,000 or imprisoned not more than five years, or, both, or if such funds, assets, or property are of a value of less than \$100, shall be fined not more than \$1,000 or imprisoned for not more than one year, or both.

(h)⁵⁵ No provision of this Act or of the Child Nutrition Act of 1966 shall require any school receiving funds under this Act and the Child Nutrition Act of 1966 to account separately for the cost incurred in the school lunch and school breakfast programs. (42 U.S.C. 1760.)

SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

SEC. 13.⁵⁶ (a)(1) The Secretary is authorized to carry out a program to assist States, through grants-in-aid and other means, to initiate, maintain, and expand nonprofit food service programs for children in service institutions. For purposes of this section, (A) "program" means the summer food service program for children authorized by this section; (B) "service institutions" means public or private nonprofit school food authorities, local, municipal, or county governments, and residential public or private nonprofit summer camps, that develop special summer or school vacation programs providing food service similar to that made available to children during the school year under the school lunch program under this Act or the school breakfast program under the Child Nutrition Act of 1966; (C) "areas in which poor economic conditions exist" means areas in which at least 50 percent⁵⁷ of the children are eligible for free or reduced price school meals under this Act and the Child Nutrition Act of 1966, as determined by information provided from departments of welfare, zoning commissions, census tracts, by the number of free and reduced price lunches or breakfasts served to children attending public and nonprofit private schools located in the area of program food service sites, or from other appropriate sources, including statements of eligibility based upon income for children enrolled in the program; (D) "children" means individuals who are eighteen years of age and under, and individuals who are older than eighteen who are (i) determined by a State educational agency or a local public educational agency of a State, in accordance with regulations prescribed by the Secretary, to be mentally or physically handicapped, and (ii) participating in a public or nonprofit private⁵⁸ school program established for the mentally or physically handicapped; and (E) "State" means any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, Ameri-

⁵⁵ This subsection was added by section 6(a)(1) of P.L. 95-627, 92 Stat. 3620, Nov. 10, 1978 and amended by section 819 of P.L. 97-35, 95 Stat. 533, Aug. 13, 1981 to eliminate the requirement that reimbursement to school food authorities not exceed the cost of operating the lunch and breakfast programs.

⁵⁶ This section was completely revised by P.L. 95-166, 91 Stat. 1325, Nov. 10, 1977. The earlier section was enacted by P.L. 94-105, 89 Stat. 515, Oct. 7, 1975, replacing a section of the same number which provided for a special food service program for children.

⁵⁷ Section 809 of P.L. 97-35, 95 Stat. 527, Aug. 13, 1981 replaced the words "nonresidential public or private nonprofit institutions" with "public or private nonprofit school food authorities, local, municipal, or county governments," and substituted "50 percent" for "33 1/3 percent".

⁵⁸ The phrase "or nonprofit private" was added by sec. 10(d)(2) of P.L. 95-627, 92 Stat. 3624, Nov 10, 1978.

can Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

(2) To the maximum extent feasible, consistent with the purposes of this section, any food service under the program shall use meals prepared at the facilities of the service institution or at the food service facilities of public and nonprofit private schools. The Secretary shall assist States in the development of information and technical assistance to encourage increased service of meals prepared at the facilities of service institutions and at public and nonprofit private schools.

(3) Eligible service institutions entitled to participate in the program shall be limited to those that—

(A) demonstrate adequate administrative and financial responsibility to manage an effective food service;

(B) have not been seriously deficient in operating under the program;

(C) either conduct a regularly scheduled food service for children from areas in which poor economic conditions exist or qualify as camps; and

(D) provide an ongoing year-round service to the community to be served under the program (except that an otherwise eligible service institution shall not be disqualified for failure to meet this requirement for ongoing year-round service if the State determines that its disqualification would result in an area in which poor economic conditions exist not being served or in a significant number of needy children not having reasonable access to a summer food service program).

(4) The following order of priority shall be used by the State in determining participation where more than one eligible service institution proposes to serve the same area:

(A) local schools or service institutions that have demonstrated successful program performance in a prior year;

(B) service institutions that prepare meals at their own facilities or operate only one site;

(C) service institutions that use local school food facilities for the preparation of meals;

(D) other service institutions that have demonstrated ability for successful program operation; and

(E) service institutions that plan to integrate the program with Federal, State, or local employment programs.

The Secretary and the States, in carrying out their respective functions under this section, shall actively seek eligible service institutions located in rural areas, for the purpose of assisting such service institutions in applying to participate in the program.

(5) Camps that satisfy all other eligibility requirements of this section shall receive reimbursement only for meals served to children who meet the eligibility requirements for free or reduced price meals, as determined under this Act and the Child Nutrition Act of 1966.

(6)⁵⁹ Service institutions that are local, municipal, or county governments shall be eligible for reimbursement for meals served in

⁵⁹ Paragraph 6 was added by section 809, P.L. 97-35, 95 Stat. 527, Aug. 13, 1981.

programs under this section only if such programs are operated directly by such governments.

(b)(1) Payments to service institutions shall equal the full cost of food service operations (which cost shall include the cost of obtaining, preparing, and serving food, but shall not include administrative costs), except that such payments to any institution shall not exceed (1) 85.75 cents for each lunch and supper served; (2) 47.75 cents for each breakfast served; or (3) 22.50 cents for each meal supplement served: *Provided*, That such amounts shall be adjusted each January 1 to the nearest one-fourth cent in accordance with the changes for the twelve-month period ending the preceding November 30 in the series for food away from home of the Consumer Price Index for All Urban Consumers⁶⁰ published by the Bureau of Labor Statistics of the Department of Labor: *Provided further*, That the Secretary may make such adjustments in the maximum reimbursement levels as the Secretary determines appropriate after making the study prescribed in paragraph (4) of this subsection.

(2)⁶¹ Any service institution may only serve lunch and either breakfast or a meal supplement during each day of operation, except that any service institution that is a camp or that serves meals primarily to migrant children may serve up to four meals during each day of operation, if (A) the service institution has the administrative capability and the food preparation and food holding capabilities (where applicable) to serve more than one meal per day, and (B) the service period of different meals does not coincide or overlap. The meals that camps and migrant programs may serve shall include a breakfast, a lunch, a supper, and meal supplements.

(3) Every service institution, when applying for participation in the program, shall submit a complete budget for administrative costs related to the program, which shall be subject to approval by the State. Payment to service institutions for administrative costs shall equal the full amount of State approved administrative costs incurred, except that such payment to service institutions may not exceed the maximum allowable levels determined by the Secretary pursuant to the study prescribed in paragraph (4) of this subsection.

(4)(A) The Secretary shall conduct a study of the food service operations carried out under the program. Such study shall include, but shall not be limited to—

- (i) an evaluation of meal quality as related to costs; and
- (ii) a determination whether adjustments in the maximum reimbursement levels for food service operation costs prescribed in paragraph (1) of this subsection should be made, including whether different reimbursement levels should be established for self-prepared meals and vendored meals and which site-related costs, if any, should be considered as part of administrative costs.

(B) The Secretary shall also study the administrative costs of service institutions participating in the program and shall thereaf-

⁶⁰ The phrase "for All Urban Consumers" was added by section 5(d) of P.L. 95-627, Nov. 10, 1978, effective July 1, 1979.

⁶¹ This paragraph was amended by section 206, P.L. 96-499, 94 Stat. 2601, Dec. 5, 1980, to limit meal service to a lunch and either breakfast or a meal supplement, except in camps or institutions serving primarily migrants.

ter prescribe maximum allowable levels for administrative payments that reflect the costs of such service institutions, taking into account the number of sites and children served, and such other factors as the Secretary determines appropriate to further the goals of efficient and effective administration of the program.

(C) The Secretary shall report the results of such studies to Congress not later than December 1, 1977.

(c) Payments shall be made to service institutions only for meals served during the months of May through September, except in the case of service institutions that operate food service programs for children on school vacation at any time under a continuous school calendar.

(d) Not later than April 15, May 15, and July 1, of each year, the Secretary shall forward to each State a letter of credit (advance program payment) that shall be available to each State for the payment of meals to be served in the month for which the letter of credit is issued. The amount of the advance program payment shall be an amount which the State demonstrates, to the satisfaction of the Secretary, to be necessary for advance program payments to service institutions in accordance with subsection (e) of this section. The Secretary shall also forward such advance program payments, by the first day of the month prior to the month in which the program will be conducted, to States that operate the program in months other than May through September. The Secretary shall forward any remaining payments due pursuant to subsection (b) of this section not later than sixty days following receipt of valid claims therefor.

(e)(1) Not later than June 1, July 15, and August 15 of each year, or, in the case of service institutions that operate under a continuous school calendar, the first day of each month of operation, the State shall forward advance program payments to each service institution: *Provided*, That (A) the State shall not release the second month's advance program payment to any service institution that has not certified that it has held training sessions for its own personnel and the site personnel with regard to program duties and responsibilities, and (B) no advance program payment may be made for any month in which the service institution will operate under the program for less than ten days.

(2) The amount of the advance program payment for any month in the case of any service institution shall be an amount equal to (A) the total program payment for meals served by such service institution in the same calendar month of the preceding calendar year, (B) 50 percent of the amount established by the State to be needed by such service institution for meals if such service institution contracts with a food service management company, or (C) 65 percent of the amount established by the State to be needed by such service institution for meals if such service institution prepares its own meals, whichever amount is greatest: *Provided*, That the advance program payment may not exceed the total amount estimated by the State to be needed by such service institution for meals to be served in the month for which such advance program payment is made or \$40,000, whichever is less, except that a State may make a larger advance program payment to such service institution where the State determines that such larger payment is nec-

essary for the operation of the program by such service institution and sufficient administrative and management capability to justify a larger payment is demonstrated. The State shall forward any remaining payment due a service institution not later than seventy-five days following receipt of valid claims. If the State has reason to believe that a service institution will not be able to submit a valid claim for reimbursement covering the period for which an advance program payment has been made, the subsequent month's advance program payment shall be withheld until such time as the State has received a valid claim. Program payments advanced to service institutions that are not subsequently deducted from a valid claim for reimbursement shall be repaid upon demand by the State. Any prior payment that is under dispute may be subtracted from an advance program payment.

(f) Service institutions receiving funds under this section shall serve meals consisting of a combination of foods and meeting minimum nutritional standards prescribed by the Secretary on the basis of tested nutritional research. Such meals shall be served without cost to children attending service institutions approved for operation under this section, except that, in the case of camps, charges may be made for meals served to children other than those who meet the eligibility requirements for free or reduced price meals in accordance with subsection (a)(5) of this section. To assure meal quality, States shall, with the assistance of the Secretary, prescribe model meal specifications and model food quality standards, and ensure that all service institutions contracting for the preparation of meals with food service management companies include in their contracts menu cycles, local food safety standards, and food quality standards approved by the State. Such contracts shall require (A) periodic inspections, by an independent agency or the local health department for the locality in which the meals are served, of meals prepared in accordance with the contract in order to determine bacteria levels present in such meals, and (B) that bacteria levels conform to the standards which are applied by the local health authority for that locality with respect to the levels of bacteria that may be present in meals served by other establishments in that locality. Such inspections and any testing resulting therefrom shall be in accordance with the practices employed by such local health authority.

(g) The Secretary shall publish proposed regulations relating to the implementation of the program by November 1 of each fiscal year, final regulations by January 1 of each fiscal year, and guidelines, applications, and handbooks by February 1 of each fiscal year: *Provided*, That for fiscal year 1978, those portions of the regulations relating to payment rates for both food service operations and administrative costs need not be published until December 1 and February 1, respectively. In order to improve program planning, the Secretary may provide that service institutions be paid as startup costs not to exceed 20 percent of the administrative funds provided for in the administrative budget approved by the State under subsection (b)(3) of this section. Any payments made for startup costs shall be subtracted from amounts otherwise payable for administrative costs subsequently made to service institutions under subsection (b)(3) of this section.

(h) Each service institution shall, insofar as practicable, use in its food service under the program foods designated from time to time by the Secretary as being in abundance. The Secretary is authorized to donate to States, for distribution to service institutions, food available under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431), or purchased under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) or section 709 of the Food and Agriculture Act of 1965 (7 U.S.C. 1446a-1). Donated foods may be distributed only to service institutions that can use commodities efficiently and effectively, as determined by the Secretary.

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(j) Expenditures of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under this section.

(k)(1)⁶³ The Secretary shall pay to each State for its administrative costs incurred under this section in any fiscal year an amount equal to (A) 20 percent of the first \$50,000 in funds distributed to that State for the program in the preceding fiscal year; (B) 10 percent of the next \$100,000 distributed to that State for the program in the preceding fiscal year; (C) 5 percent of the next \$250,000 in funds distributed to that State for the program in the preceding fiscal year, and (D) 2½ percent of any remaining funds distributed to that State for the program in the preceding fiscal year: *Provided*, That such amounts may be adjusted by the Secretary to reflect changes in the size of that State's program since the preceding fiscal year.

(2) The Secretary shall establish standards and effective dates for the proper, efficient, and effective administration of the program by the State. If the Secretary finds that the State has failed without good cause to meet any of the Secretary's standards or has failed without good cause to carry out the approved State management and administration plan under subsection (n) of this section, the Secretary may withhold from the State such funds authorized under this subsection as the Secretary determines to be appropriate.

(3) To provide for adequate nutritional and food quality monitoring, and to further the implementation of the program, an additional amount, not to exceed the lesser of actual costs or 1 percent of program funds, shall be made available by the Secretary to States to pay for State or local health department inspections, and to reinspect facilities and deliveries to test meal quality.

(l)(1) Service institutions may contract on a competitive basis only with food service management companies registered with the State in which they operate for the furnishing of meals or management of the entire food service under the program, except that a food service management company entering into a contract with a service institution under this section may not subcontract with a single company for the total meal, with or without milk, or for the assembly of the meal. The Secretary shall prescribe additional conditions and limitations governing assignment of all or any part of a

⁶² Section 817, P.L. 97-35, 95 Stat. 532, Aug. 13, 1981 eliminated subsection (i) concerning the Secretary's authority to directly administer the program.

⁶³ This subsection was amended by section 7(b) of P.L. 95-627, 92 Stat. 3622, Nov. 10, 1978.

contract entered into by a food service management company under this section. Any food service management company shall, in its bid, provide the service institution information as to its meal capacity. The State shall, upon award of any bid, review the company's registration to calculate how many remaining meals the food service management company is equipped to prepare.

(2) Each State shall provide for the registration of food service management companies. For the purposes of this section, registration shall include, at a minimum—

(A) certification that the company meets applicable State and local health, safety, and sanitation standards;

(B) disclosure of past and present company owners, officers, and directors, and their relationship, if any, to any service institution or food service management company that received program funds in any prior fiscal year;

(C) records of contract terminations or disallowances, and health, safety, and sanitary code violations, in regard to program operations in prior fiscal years; and

(D) the addresses of the company's food preparation and distribution sites.

No food service management company may be registered if the State determines that such company (i) lacks the administrative and financial capability to perform under the program, or (ii) has been seriously deficient in its participation in the program in prior fiscal years.

(3) In order to ensure that only qualified food service management companies contract for services in all States, the Secretary shall maintain a record of all registered food service management companies and their program record for the purpose of making such information available to the States.

(4) In accordance with regulations issued by the Secretary, positive efforts shall be made by service institutions to use small businesses and minority-owned businesses as sources of supplies and services. Such efforts shall afford those sources the maximum feasible opportunity to compete for contracts using program funds.

(5) Each State, with the assistance of the Secretary, shall establish a standard form of contract for use by service institutions and food service management companies. The Secretary shall prescribe requirements governing bid and contract procedures for acquisition of the services of food service management companies, including, but not limited to, bonding requirements (which may provide exemptions applicable to contracts of \$100,000 or less), procedures for review of contracts by States, and safeguards to prevent collusive bidding activities between service institutions and food service management companies.

(m) States and service institutions participating in programs under this section shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with this section and the regulations issued hereunder. Such accounts and records shall at all times be available for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of five years, as the Secretary determines necessary.

(n) Each State desiring to participate in the program shall notify the Secretary by January 1 of each year of its intent to administer the program and shall submit for approval by February 15 a management and administration plan for the program for the fiscal year which shall include, but not be limited to, (1) the State's administrative budget for the fiscal year, and the State's plans to comply with any standards prescribed by the Secretary under subsection (k) of this section; (2) the State's plan for use of program funds and funds from within the State to the maximum extent practicable to reach needy children, including the State's method for assessing need, and its plans and schedule for informing service institutions of the availability of the program; (3) the State's best estimate of the number and character of service institutions and sites to be approved, and of meals to be served and children to participate for the fiscal year, and a description of the estimating methods used; (4) the State's plans and schedule for providing technical assistance and training eligible service institutions; (5) the State's schedule for application by service institutions; (6) the actions to be taken to maximize the use of meals prepared by service institutions and the use of school food service facilities; (7) the State's plans for monitoring and inspecting service institutions, feeding sites, and food service management companies and for ensuring that such companies do not enter into contracts for more meals than they can provide effectively and efficiently; (8) the State's plan and schedule for registering food service management companies; (9) the State's plan for timely and effective action against program violators; (10) the State's plan for determining the amounts of program payments to service institutions and for disbursing such payments; (11) the State's plan for ensuring fiscal integrity by auditing service institutions not subject to auditing requirements prescribed by the Secretary; and (12) the State's procedure for granting a hearing and prompt determination to any service institution wishing to appeal a State ruling denying the service institution's application for program participation or for program reimbursement.

(o)(1) Whoever, in connection with any application, procurement, recordkeeping entry, claim for reimbursement, or other document or statement made in connection with the program, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, or whoever, in connection with the program, knowingly makes an opportunity for any person to defraud the United States, or does or omits to do any act with intent to enable any person to defraud the United States, shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

(2) Whoever being a partner, officer, director, or managing agent connected in any capacity with any partnership, association, corporation, business, or organization, either public or private, that receives benefits under the program, knowingly or willfully embezzles, misapplies, steals, or obtains by fraud, false statement, or forgery, any benefits provided by this section or any money, funds,

assets, or property derived from benefits provided by this section, shall be fined not more than \$10,000 or imprisoned for not more than five years, or both (but, if the benefits, money, funds, assets, or property involved is not over \$200, then the penalty shall be a fine of not more than \$1,000 or imprisonment for not more than one year, or both).

(3) If two or more persons conspire or collude to accomplish any act made unlawful under this subsection, and one or more of such persons do any act to effect the object of the conspiracy or collusion, each shall be fined not more than \$10,000 or imprisoned for not more than five years, or both.

(p) For the fiscal years beginning October 1, 1977, and ending September 30, 1984,⁶⁴ there are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this section. (42 U.S.C. 1761.)

COMMODITY DISTRIBUTION PROGRAM

SEC. 14.⁶⁵ (a) Notwithstanding any other provision of law, the Secretary, during the period beginning July 1, 1974, and ending September 30, 1984, shall—

(1) use funds available to carry out the provisions of section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) which are not expended or needed to carry out such provisions, to purchase (without regard to the provisions of existing law governing the expenditure of public funds) agricultural commodities and their products of the types customarily purchased under such section (which may include domestic seafood commodities and their products)⁶⁶ for donation to maintain the annually programmed level of assistance for programs carried on under this Act, the Child Nutrition Act of 1966, and title III⁶⁷ of the Older Americans Act of 1965; and

(2) if stocks of the Commodity Credit Corporation are not available, use the funds of such Corporation to purchase agricultural commodities and their products of the types customarily available under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431), for such donation.

(b)⁶⁸ Among the products to be included in the food donations to the school lunch program shall be cereal and shortening and oil products.

(c)⁶⁹ The Secretary may use funds appropriated from the general fund of the Treasury to purchase agricultural commodities and their products of the types customarily purchased for donation under section 311(a)(4) of the Older Americans Act of 1965 (42 U.S.C. 3030(a)(4)) or for cash payments in lieu of such donations under section 311(c)(1) of such Act (42 U.S.C. 3030(c)(1)).⁷⁰ There

⁶⁴ Extended by section 207, P.L. 96-499, 94 Stat. 2602, Dec. 5, 1980.

⁶⁵ Added by P.L. 93-326, 88 Stat. 286, June 30, 1974, extended to Sept. 30, 1977, by P.L. 94-105, 89 Stat. 515, Oct. 7, 1975, extended to Sept. 30, 1982, by P.L. 95-166, 91 Stat. 1334, Nov. 10, 1977, and further extended to Sept. 30, 1984, by section 202, P.L. 96-499, 94 Stat. 2600, Dec. 5, 1980.

⁶⁶ This phrase was added by section 12(b) of P.L. 95-627, 92 Stat. 3625, Nov. 10, 1978.

⁶⁷ Section 819 of P.L. 97-35, 95 Stat. 533, Aug. 13, 1981 substituted "title III" for "title VII".

⁶⁸ This subsection added by P.L. 94-105, 89 Stat. 515, Oct. 7, 1975.

⁶⁹ This subsection added by P.L. 95-166, 91 Stat. 1334, Nov. 10, 1977.

⁷⁰ Section 819 of P.L. 97-35, 95 Stat. 533, Aug. 13, 1981 corrected the citations to the Older Americans Act from the old title VII references to the current title III references.

are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this subsection.

(d)⁷¹ In providing assistance under this Act and the Child Nutrition Act of 1966 for school lunch and breakfast programs, the Secretary shall establish procedures which will—

(1) ensure that the views of local school districts and private nonprofit schools with respect to the type of commodity assistance needed in schools are fully and accurately reflected in reports to the Secretary by the State with respect to State commodity preferences and that such views are considered by the Secretary in the purchase and distribution of commodities and by the States in the allocation of such commodities among schools within the States;

(2) solicit the views of States with respect to the acceptability of commodities;

(3) ensure that the timing of commodity deliveries to States is consistent with State school year calendars and that such deliveries occur with sufficient advance notice;

(4) provide for systematic review of the costs and benefits of providing commodities of the kind and quantity that are suitable to the needs of local school districts and private nonprofit schools; and

(5) make available technical assistance on the use of the commodities available under this Act and the Child Nutrition Act of 1966.

Within eighteen months after the date of the enactment of this subsection, the Secretary shall report to the Congress on the impact of procedures established under this subsection, including the nutritional, economic, and administrative benefits of such procedures. In purchasing commodities for programs carried out under this Act and the Child Nutrition Act of 1966, the Secretary shall establish procedures to ensure that contracts for the purchase of such commodities shall not be entered into unless the previous history and current patterns of the contracting party with respect to compliance with applicable meat inspection laws and with other appropriate standards relating to the wholesomeness of food for human consumption are taken into account.

(e)⁷² Each State educational agency that receives food assistance payments under this section for any school year shall establish for such year an advisory council, which shall be composed of representatives of schools in the State that participate in the school lunch program. The Council shall advise such State agency with respect to the needs of such schools relating to the manner of selection and distribution of commodity assistance for such program.

(f)⁷³ Commodity only schools shall be eligible to receive donated commodities equal in value to the sum of the national average value of donated foods established under section 6(e) of this Act and the national average payment established under section 4 of this Act. Such schools shall be eligible to receive up to 5 cents per meal of such value in cash for processing and handling expenses

⁷¹ This subsection added by P.L. 95-166, 91 Stat. 1335, Nov. 10, 1977.

⁷² See footnote 71, *supra*.

⁷³ This section was added by section 813, P.L. 97-35, 95 Stat. 580, Aug. 13, 1981.

related to the use of such commodities. Lunches served in such schools shall consist of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary under section 9(a) of this Act, and shall represent the four basic food groups, including a serving of fluid milk. (42 U.S.C. 1762a.)

NATIONAL ADVISORY COUNCIL

SEC. 15.⁷⁴ (a) There is hereby established a council to be known as the National Advisory Council on Child Nutrition (hereinafter in this section referred to as the "Council") which shall be composed of nineteen⁷⁵ members appointed by the Secretary. One member shall be a school administrator, one member shall be a person engaged in child welfare work, one member shall be a person engaged in vocational education work, one member shall be a nutrition expert, one member shall be a school food service management expert, one member shall be a State superintendent of schools (or the equivalent thereof), one member shall be a supervisor of a school lunch program in a school system in an urban area (or the equivalent thereof), one member shall be a supervisor of a school lunch program in a school system in a rural area,⁷⁶ one member shall be a State school lunch director (or the equivalent thereof), one member shall be a person serving on a school board, one member shall be a classroom teacher, two members shall be parents of children in schools that participate in the school lunch program under this Act, two members shall be senior high school students who participate in the school lunch program under this Act,⁷⁷ and four members shall be officers or employees of the Department of Agriculture specially qualified to serve on the Council because of their education, training, experience, and knowledge in matters relating to child food programs.

(b)⁷⁸ The fifteen members of the Council appointed from outside the Department of Agriculture shall be appointed for terms of two years, except that the appointments for 1978 shall be made as follows: Two replacements, one parent, and one senior high school student shall be appointed for terms of two years; and two replacements, one parent, and one senior high school student shall be appointed for terms of one year. Thereafter, all appointments shall be for a term of two years, except that a person appointed to fill an unexpired term shall serve only for the remainder of such term. Parents and senior high school students appointed to the Council shall be members of State or school district child nutrition councils or committees actively engaged in providing program advice and guidance to school officials administering the school lunch program. Such appointments shall be made in a manner to balance rural and urban representation between parents and students.

⁷⁴ This section was added by P.L. 91-248, 84 Stat. 213, May 14, 1970, as section 14. It was renumbered as 15 by P.L. 93-326, 88 Stat. 286, June 30, 1974.

⁷⁵ P.L. 93-150, 87 Stat. 564, Nov. 7, 1973, substituted "fifteen" for "thirteen". P.L. 95-166, 91 Stat. 1344, Nov. 10, 1977, substituted "nineteen" for "fifteen".

⁷⁶ P.L. 93-150, 87 Stat. 564, Nov. 7, 1973, added the two clauses referring to school lunch program supervisors.

⁷⁷ The last four members were added by P.L. 95-166, 91 Stat. 1344, Nov. 10, 1977.

⁷⁸ This subsection was completely revised by P.L. 95-166, 91 Stat. 1344, Nov. 10, 1977.

Members appointed from the Department of Agriculture shall serve at the pleasure of the Secretary.

(c) The Secretary shall designate one of the members to serve as Chairman and one to serve as Vice Chairman of the Council.

(d) The Council shall meet at the call of the Chairman but shall meet at least once a year.

(e) Eight⁷⁹ members shall constitute a quorum and a vacancy on the Council shall not affect its powers.

(f) It shall be the function of the Council to make a continuing study of the operation of programs carried out under the National School Lunch Act, the Child Nutrition Act of 1966, and any related Act under which meals are provided for children, with a view to determining how such programs may be improved. The Council shall submit to the President and the Congress biennially⁸⁰ a written report of the results of its study together with such recommendations for administrative and legislative changes as it deems appropriate.

(g) The Secretary shall provide the Council with such technical and other assistance, including secretarial and clerical assistance, as may be required to carry out its functions under this Act.

(h) Members of the Council shall serve without compensation but shall receive reimbursement for necessary travel and subsistence expenses incurred by them in the performance of the duties of the Council: *Provided*, That members serving as parents, in addition to reimbursement for necessary travel and subsistence, shall, at the discretion of the Secretary, be compensated for other personal expenses related to participation on the Council, such as child care expenses and lost wages during scheduled Council meetings.⁸¹ (42 U.S.C. 1763.)

ELECTION TO RECEIVE CASH PAYMENTS

SEC. 16.⁸² (a) Notwithstanding any other provision of law, where a State phased out its commodity distribution facilities prior to June 30, 1974, such State may, for purposes of the programs authorized by this Act and the Child Nutrition Act of 1966, elect to receive cash payments in lieu of donated foods. Where such an election is made, the Secretary shall make cash payments to such State in an amount equivalent in value to the donated foods that the State would otherwise have received if it had retained its commodity distribution facilities. The amount of cash payments in the case of lunches shall be governed by section 6(e) of this Act.

(b) When such payments are made, the State educational agency shall promptly and equitably disburse any cash it receives in lieu of commodities to eligible schools and institutions, and such disbursements shall be used by such schools and institutions to purchase United States agricultural commodities and other foods for their food service programs. (42 U.S.C. 1765.)

⁷⁹ P.L. 93-150, 87 Stat. 564, Nov. 7, 1973, substituted "eight" for "seven".

⁸⁰ The frequency of the report was changed from "annually" to "biennially" by section 819, P.L. 97-35, 95 Stat. 533, Aug. 13, 1981.

⁸¹ The proviso was added by P.L. 95-166, 91 Stat. 1344, Nov. 10, 1977.

⁸² This section was added by P.L. 94-105, 89 Stat. 515, Oct. 7, 1975.

CHILD CARE FOOD PROGRAM

SEC. 17.⁸³ (a) the Secretary may carry out a program to assist States through grants-in-aid and other means to initiate, maintain, and expand nonprofit food service programs for children in institutions providing child care. For purposes of this section, the term "institution" means any public or private nonprofit organization providing nonresidential child care, including, but not limited to, child care centers, settlement houses, recreational centers, Head Start centers, and institutions providing child care facilities for handicapped children; and such term shall also mean any other private organization providing nonresidential day care services for which it receives compensation for amounts granted to the States under title XX of the Social Security Act⁸⁴ (but only if such organization receives compensation under such title for at least 25 percent of the children for which the organization provides such nonresidential day care services).⁸⁵ In addition, the term "institution" shall include programs developed to provide day care outside school hours for school children, and public or nonprofit private organizations that sponsor family or group day care homes. Reimbursement may be provided under this section only for meals or supplements served to children not over 12 years of age (except that such age limitation shall not be applicable for children of migrant workers if 15 years of age or less or for handicapped children).⁸⁶ The Secretary may establish separate guidelines for institutions that provide care to school children outside of school hours. For purposes of determining eligibility—

(1) no institution, other than a family or group day care home sponsoring organization, or family or group day care home shall be eligible to participate in the program unless it has Federal, State, or local licensing or approval, or is complying with appropriate renewal procedures as prescribed by the Secretary and the State has no information indicating that the institution's license will not be renewed; or where Federal, State, or local licensing or approval is not available, it receives funds under title XX of the Social Security Act or otherwise demonstrates that it meets either any applicable State or local government licensing or approval standards established by the Secretary after consultation with the Secretary of Health, Education, and Welfare;* and

(2) no institution shall be eligible to participate in the program unless it satisfies the following criteria:

(A) accepts final administrative and financial responsibility for management of an effective food service;

⁸³ This section was added by P.L. 94-105, 89 Stat. 522, Oct. 7, 1975, and completely revised by section 2 of P.L. 95-627, 92 Stat. 3603, Nov. 10, 1978.

⁸⁴ Section 207, P.L. 96-499, 94 Stat. 2602, Dec. 5, 1980, added the clause providing for participation by title XX institutions. P.L. 96-499 made this amendment effective for all fiscal years beginning on or after October 1, 1980.

⁸⁵ The material in parentheses was added by section 810, P.L. 97-35, 95 Stat. 528, Aug. 13, 1981.

⁸⁶ The age limitation for children eligible to receive meals was added by section 810, P.L. 97-35, 95 Stat. 528, Aug. 13, 1981.

* Section 509(b) of Public Law 96-88, 93 Stat. 695, Oct. 17, 1979, provides that any reference to the Secretary of Health, Education, and Welfare shall be deemed to refer to the Secretary of Health and Human Services.

(B) has not been seriously deficient in its operation of the child care food program, or any other program under this Act or the Child Nutrition Act of 1966, for a period of time specified by the Secretary; and

(C) will provide adequate supervisory and operational personnel for overall monitoring and management of the child care food program.

(b) For the fiscal year ending September 30, 1979, and for each subsequent fiscal year, the Secretary shall provide cash assistance to States for meals as provided in subsection (f)⁸⁷ of this section, except that, in any fiscal year, the aggregate amount of assistance provided to a State by the Secretary under this section shall not exceed the sum of (1) the Federal funds provided by the State to participating institutions within the State for that fiscal year and (2) any funds used by the State under section 10 of the Child Nutrition Act of 1966.

(c)(1)⁸⁸ For purposes of this section, the national average payment rate for free lunches and suppers, the national average payment rate for reduced-price lunches and suppers, and the national average payment rate for paid lunches and suppers shall be the same as the national average payment rates for free lunches, reduced-price lunches, and paid lunches, respectively, under sections 4 and 11 of this Act as appropriate (as adjusted pursuant to section 11(a) of this Act).

(2) For purposes of this section, the national average payment rate for free breakfasts, the national average payment rate for reduced-price breakfasts, and the national average payment rate for paid breakfasts shall be the same as the national average payment rates for free breakfasts, reduced-price breakfasts, and paid breakfasts, respectively, under section 4(b) of the Child Nutrition Act of 1966 (as adjusted pursuant to section 11(a) of this Act).

(3) For purposes of this section, the national average payment rate for free supplements shall be 30 cents, the national average payment rate for reduced-price supplements shall be one-half the rate for free supplements, and the national average payment rate for paid supplements shall be 2.75 cents (as adjusted pursuant to section 11(a) of this Act).

(4) Determinations with regard to eligibility for free and reduced-price meals and supplements shall be made in accordance with the income eligibility guidelines for free lunches and reduced-price lunches, respectively, under section 9 of this Act.

(d) Any eligible public institution shall be approved for participation in the child care food program upon its request. Any eligible private institution shall be approved for participation if it (1) has tax exempt status under the Internal Revenue Code of 1954 or, under conditions established by the Secretary, is moving toward compliance with the requirements for tax exempt status, or (2) is currently operating a Federal program requiring nonprofit status. Family or group day care homes need not have individual tax

⁸⁷ Section 810, P.L. 97-35, 95 Stat. 528, Aug. 13, 1981, changed the reference from subsection (c) to subsection (f).

⁸⁸ This subsection was completely amended by section 810, P.L. 97-35, 95 Stat. 528, Aug. 13, 1981.

exempt certification if they are sponsored by an institution that has tax exempt status, or, under conditions established by the Secretary, such institution is moving toward compliance with the requirements for tax exempt status or is currently operating a Federal program requiring nonprofit status. An institution applying for participation under this section shall be notified of approval or disapproval in writing within thirty days after the date its completed application is filed. If an institution submits an incomplete application to the State, the State shall so notify the institution within fifteen days of receipt of the application, and shall provide technical assistance, if necessary, to the institution for the purpose of completing its application.

(e) The State shall provide, in accordance with regulations issued by the Secretary, a fair hearing and a prompt determination to any institution aggrieved by the action of the State as it affects the participation of such institution in the program authorized by this section, or its claim for reimbursement under this section.

(f)(1) Funds paid to any State under this section shall be disbursed to eligible institutions by the State under agreements approved by the Secretary. Disbursements to any institution shall be made only for the purpose of assisting in providing meals to children attending institutions, or in family or group day-care homes.⁸⁹ Disbursement to any institution shall not be dependent upon the collection of moneys from participating children. All valid claims from such institutions shall be paid within forty-five days of receipt by the State. The State shall notify the institution within fifteen days of receipt of a claim if the claim as submitted is not valid because it is incomplete or incorrect.

(2)(A)⁹⁰ Subject to subparagraph (B) of this paragraph, the disbursement for any fiscal year to any State for disbursement to institutions, other than family or group day care home sponsoring organizations, for meals provided under this section shall be equal to the sum of the products obtained by multiplying the total number of each type of meal (breakfast, lunch or supper, or supplement) served in such institution in that fiscal year by the applicable national average payment rate for each such type of meal, as determined under subsection (c).

(B) No reimbursement may be made to any institution under this paragraph, or to family or group day care home sponsoring organizations under paragraph (3) of this subsection, for more than two meals and one supplement per day per child.

(3)(A)⁹¹ Institutions that participate in the program under this section as family or group day care home sponsoring organizations shall be provided, for payment to such homes, a reimbursement factor set by the Secretary for the cost of obtaining and preparing food and prescribed labor costs, involved in providing meals under this section, without a requirement for documentation of such costs, except that reimbursement shall not be provided under this subparagraph for meals or supplements served to the children of a

⁸⁹ Section 819, P.L. 97-35, 95 Stat. 534, Aug. 13, 1981, amended this sentence by deleting the words "financing the cost of".

⁹⁰ This subsection was completely amended by section 810, P.L. 97-35, 95 Stat. 528, Aug. 13, 1981.

⁹¹ Paragraph 3 was completely amended by section 810, P.L. 97-35, 95 Stat. 529, Aug. 13, 1981.

person acting as a family or group day care home provider unless such children meet the eligibility standards for free or reduced-price meals under section 9 of this Act. The reimbursement factor in effect as of the date of the enactment of this sentence shall be reduced by 10 percent. The reimbursement factor under this subparagraph shall be adjusted on July 1 of each year to reflect changes in the Consumer Price Index for food away from home for the most recent 12-month period for which such data are available. The reimbursement factor under this subparagraph shall be rounded to the nearest one-fourth cent.

(B) Family or group day care home sponsoring organizations shall also receive reimbursement for their administrative expenses in amounts not exceeding the maximum allowable levels prescribed by the Secretary. Such levels shall be adjusted July 1 of each year to reflect changes in the Consumer Price index for all items for the most recent 12-month period for which such data are available. The maximum allowable levels for administrative expense payments, as in effect as of the date of the enactment of this subparagraph, shall be adjusted by the Secretary so as to achieve a 10 percent reduction in the total amount of reimbursement provided to institutions for such administrative expenses. In making the reduction required by the preceding sentence, the Secretary shall increase the economy of scale factors used to distinguish institutions that sponsor a greater number of family or group day care homes from those that sponsor a lesser number of such homes.

(C)⁹² Reimbursement for administrative expenses shall also include start-up funds to finance the administrative expenses for such institutions to initiate successful operation under the program. Such start-up funds shall be in addition to other reimbursement to such institutions for administrative expenses. Start-up funds shall be payable to enable institutions satisfying the criteria of subsection (d) of this section, and any other standards prescribed by the Secretary, to develop an application for participation in the program as a family or group day care home sponsoring organization or to implement the program upon approval of the application. Such start-up funds shall be payable in accordance with the procedures prescribed by the Secretary. The amount of start-up funds payable to an institution shall be not less than the institution's anticipated reimbursement for administrative expenses under the program for one month and not more than the institution's anticipated reimbursement for administrative expenses under the program for two months.

(4)⁹³ By the first day of each month of operation, the State shall provide advance payments for the month to each approved institution in an amount that reflects the full level of valid claims customarily received from such institution for one month's operation. In the case of a newly participating institution, the amount of the advance shall reflect the State's best estimate of the level of valid claims such institutions will submit. If the State has reason to be-

⁹² This subparagraph was designated as (C) by section 810, P.L. 97-35, 95 Stat. 529, Aug. 13, 1981.

⁹³ This paragraph was redesignated from (5) to (4) by section 810, P.L. 97-35, 95 Stat. 529, Aug. 13, 1981.

lieve that an institution will not be able to submit a valid claim covering the period for which such an advance has been made, the subsequent month's advance payment shall be withheld until the State receives a valid claim. Payments advanced to institutions that are not subsequently deducted from a valid claim for reimbursement shall be repaid upon demand by the State. Any prior payment that is under dispute may be subtracted from an advance payment.

(g)(1) Meals served by institutions participating in the program under this section shall consist of a combination of foods that meet minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research. Such meals shall be served free to needy children.

(2)⁹⁴ No physical segregation or other discrimination against any child shall be made because of his or her inability to pay, nor shall there be any overt identification of any such child by special tokens or tickets, different meals or meal service, announced or published lists of names, or other means.

(3)⁹⁴ Each institution shall, insofar as practicable, use in its food service foods designated from time to time by the Secretary as being in abundance, either nationally or in the food service area, or foods donated by the Secretary.

(h) The Secretary shall donate agricultural commodities produced in the United States for use in institutions participating in the child care food program under this section. The value of such commodities (or cash in lieu of commodities) donated to each State for each school year shall be, at a minimum, the amount obtained by multiplying the number of lunches and suppers served in participating institutions in that State during that school year by the rate for commodities or cash in lieu thereof established for that school year under section 6(e) of this Act. Any State receiving assistance under this section for institutions participating in the child care food program may, upon application to the Secretary, receive cash in lieu of some or all of the commodities to which it would otherwise be entitled under this subsection. In determining whether to request cash in lieu of commodities, the State shall base its decision on the preferences of individual participating institutions within the State, unless this proves impracticable due to the small number of institutions preferring donated commodities.

(i)⁹⁵ The Secretary shall make available for each fiscal year to States administering the child care food program, for the purpose of conducting audits of participating institutions, an amount up to 2 percent of the funds used by each State in the program under this section, during the second preceding fiscal year.

(j)⁹⁵ The Secretary may issue regulations directing States to develop and provide for the use of a standard form of agreement between each family or group day care sponsoring organization and the family or group day care homes participating in the program

⁹⁴ Section 810, P.L. 97-35, 95 Stat. 529, Aug. 13, 1981; renumbered paragraphs (3) and (4) as (2) and (3), respectively.

⁹⁵ Former subsections (i), (m) and (n) were repealed and former subsections (j), (k), (l), (o), (p), (q), (r) and (s) were relettered by section 817, P.L. 97-35, 95 Stat. 532, Aug. 13, 1981, as (i), (j), (k), (l), (m), (n) and (o), respectively.

under such organization, for the purpose of specifying the rights and responsibilities of each party.

(k)(1)⁹⁵ The Secretary shall study the administrative costs of institutions participating in the program under this section, including the cost effect of such factors as the types of institutions, the number of children served, and the location of institutions in urban or rural areas. The Secretary may prescribe maximum allowable levels of administrative payments that reflect the cost of institutions participating in the program.

(2) The Secretary shall conduct a study of the food service operations carried out in the program under this section. Such study shall include, but not be limited to (1) an evaluation of meal quality as related to costs; and (2) a determination of whether maximum reimbursement levels should be set for food service costs, including whether different reimbursement levels should be established for self-prepared meals and vendored meals, economies of scale, and differences between food service operations in institutions and family and group day care homes.

(3) The Secretary shall conduct a study on licensing problems faced by institutions and family or group day care homes. Such study shall include, but not be limited to, an evaluation of the licensing requirements under this section.

(4) Of the funds appropriated for the fiscal year ending September 30, 1979, to carry out the purposes of this section, not to exceed \$2,000,000 shall be available to the Secretary for the purpose of conducting the studies required under paragraphs (1), (2), and (3) of this subsection. The Secretary shall report the results of such studies to Congress, along with any recommendations the Secretary wishes to make, not later than eighteen months after enactment of the Child Nutrition Amendments of 1978.

(l)⁹⁵ States participating in the program under this section shall provide sufficient training, technical assistance, and monitoring to facilitate expansion and effective operation of the program, and shall take affirmative action to expand the availability of benefits under this section. Such action, at a minimum, shall include annual notification to each nonparticipating institution or family or group day care home within the State that is licensed, approved, or registered, or that receives funds under title XX of the Social Security Act, of the availability of the program, the requirements for program participation,⁹⁶ and the application procedures to be followed in the program. The list of institutions so notified each year shall be available to the public upon request. The Secretary shall assist the States in developing plans to fulfill the requirements of this subsection.

(m)⁹⁵ Expenditures of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under this section.

(n)⁹⁵ States and institutions participating in the program under this section shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with the requirements of this section. Such accounts

⁹⁶ A reference to food service equipment funds was stricken by section 810, P.L. 97-35, 95 Stat. 529, Aug. 13, 1981.

and records shall be available at all times for inspection and audit by representatives of the Secretary, the Comptroller General of the United States, and appropriate State representatives and shall be preserved for such period of time, not in excess of five years, as the Secretary determines necessary.

(c)⁹⁵ There are hereby authorized to be appropriated for each fiscal year such funds as are necessary to carry out the purposes of this section. (42 U.S.C. 1766.)

NUTRITION PROGRAM STAFF STUDY

SEC. 18.⁹⁷ The Secretary is authorized to carry out a study to determine how States are utilizing Federal funds provided to them for the administration of the child nutrition programs authorized by this Act and the Child Nutrition Act of 1966, and to determine the level of funds needed by the States for administrative purposes. The study shall report on the current size and structure of State staffs, job descriptions and classifications, training provided to such staff, representation of minorities on staffs, and the allocation of staff time, training time, and Federal administrative dollars spent among each of the various child nutrition programs. The study shall assess State needs for additional staff positions, training, and funds, for each of the above areas, including additional State needs to implement adequately the provisions of this Act and the Child Nutrition Act of 1966. The study shall also determine State staffing needs and training program support required to conduct effective outreach for the purpose of reaching the maximum number of eligible children in the summer food service program and the child care food program. As part of this study, the Secretary shall also examine the degree and cause of plate waste in the school lunch program. The Secretary shall examine possible relationships between plate waste and (1) lack of adequate menu development, (2) the service of competitive foods, and (3) the nature of the type A lunch pattern. The Secretary shall review the study design with the appropriate congressional committees prior to its implementation, and shall report his findings together with any recommendations he may have with respect to additional legislation, to the Congress no later than March 1, 1976. (42 U.S.C. 1767.)

APPROPRIATIONS FOR THE TRUST TERRITORY OF THE PACIFIC ISLANDS

SEC. 19.⁹⁸ There is hereby authorized to be appropriated (a) for each of the fiscal years beginning July 1, 1975, and October 1, 1976, the sum of \$500,000 and (b) for the period July 1, 1976, through September 30, 1976, the sum of \$125,000, to enable the Secretary to assist the Trust Territory of the Pacific Islands to carry out various developmental and experimental projects relating to programs authorized under this Act and the Child Nutrition Act of 1966 to (1) establish or improve the organizational, administrative, and operational structures and systems at the State and local school levels; (2) develop and conduct necessary training programs for school food service personnel; (3) conduct a thorough study of the children's

⁹⁷ Section 18 was added by P.L. 94-105, 89 Stat. 527, Oct. 7, 1975.

⁹⁸ Section 19 was added by P.L. 94-105, 89 Stat. 527, Oct. 7, 1975.

food and dietary habits upon which special meal and nutritional requirements can be developed; and (4) establish and maintain viable school food services which are fully responsive to the needs of the children, and which are consistent with the range of child nutrition programs available to the other States, to the maximum extent possible. (42 U.S.C. 1768.)

PILOT PROJECTS

SEC. 20.⁹⁹ (a) The Secretary shall conduct pilot projects with respect to local school districts or other appropriate units, or groups of program participants, for the purpose of determining whether there may be more efficient, healthful, economical, and reliable methods for operating school lunch, school breakfast, and summer feeding programs under this Act and the Child Nutrition Act of 1966, and methods for operating such programs that will result in improved delivery of benefits thereunder in accordance with the purposes of such Acts. Such projects shall, notwithstanding any other provision of law, include (1) not more than ten projects providing participating schools or other institutions the option of receiving all or part cash assistance in lieu of commodities under such Acts for such nutrition programs operated in such schools or institutions, (2) projects designed to streamline or reduce reporting requirements by local school districts, and (3) projects using the United States Department of Agriculture Extension Service to aid in nutrition training and education in schools and other institutions.

(b) The Secretary shall conduct a study to analyze the impact and effect of cash payments in lieu of commodities. The study shall be limited to a comparison between a State that phased out its commodity distribution facilities prior to June 30, 1974, and elected to receive cash payments in lieu of donated foods, and a State not eligible for cash payments in lieu of donated foods. Such study shall include an assessment of the administrative feasibility and nutritional impact of cash payments in lieu of donated foods, the cost savings, if any, that may be effected thereby at the Federal, State, and local levels, any additional costs that may be placed on programs and participating students, the impact on Federal programs designed to provide adequate income to farmers, the impact on the quality of food served, and the impact on plate waste in school lunch and breakfast programs.

(c) The Secretary shall report to Congress, not later than eighteen months after the date of the enactment of this section, on the results of the pilot projects and study conducted under this section except for the pilot projects conducted under subsection (d) of this section.¹⁰⁰ In connection with such pilot projects, such report shall include an assessment of the methods employed in such projects, for operating school lunch, school breakfast, and summer feeding programs, in terms of the following factors—

- (1) the administrative feasibility and nutritional impact;

⁹⁹ Section 20 was added by P.L. 95-166, 91 Stat. 1336, Nov. 10, 1977.

¹⁰⁰ Exception added by section 11(1) of P.L. 95-627, 92 Stat. 3624, Nov. 10, 1978.

(2) the cost savings that may be effected at Federal, State, and local levels;

(3) the impact on Federal programs designed to provide adequate income to farmers;

(4) the impact on the quality of food served; and

(5) the impact on plate waste.

(d)(1)¹⁰¹ The Secretary may conduct pilot projects in not more than fourteen school districts (or other appropriate units), of which not more than two may be located in any administrative region of the Food and Nutrition Service of the Department of Agriculture, for the purpose of determining the feasibility, cost, and other consequences of providing lunches free to all children, without regard to the income of the children's families, during the school year beginning July 1, 1979.

(2) The Secretary shall reimburse school food authorities participating in a pilot project under this subsection for all lunches served to children on the same basis that the Secretary normally provides for lunches served to children meeting the eligibility requirements for free lunches under section 9 of this Act.

(3) The Secretary shall submit to the appropriate committees of the Senate and the House of Representatives a report on the pilot projects conducted under this subsection not later than six months after the conclusion of such projects.

(4) There are hereby authorized to be appropriated such sums as are necessary for the fiscal year beginning October 1, 1978, for the purpose of conducting an evaluation of pilot projects conducted under this subsection and for the purpose of making additional payments for lunches served to children (beyond what the school food authorities would otherwise receive under sections 4 and 11 of this Act) to school food authorities participating in pilot projects. (42 U.S.C. 1769.)

REDUCTION OF PAPER WORK

SEC. 21.¹⁰² In carrying out functions under this Act and the Child Nutrition Act of 1966, the Secretary shall reduce, to the maximum extent possible, the paperwork required of State and local educational agencies, schools, and other agencies participating in child nutrition programs under such Acts. The Secretary shall report to Congress not later than one year after the date of enactment of this section on the extent to which a reduction in such paperwork has occurred. (42 U.S.C. 1769a.)

DEPARTMENT OF DEFENSE OVERSEAS DEPENDENTS' SCHOOLS

SEC. 22.¹⁰³ (a) For the purpose of obtaining Federal payments and commodities in conjunction with the provision of lunches to students attending Department of Defense dependents' schools which are located outside the United States, its territories or possessions, the Secretary of Agriculture shall make available to the Department of Defense, from funds appropriated for such purposes,

¹⁰¹ This subsection was added by section 11(2) of P.L. 95-627, 92 Stat. 3624, Nov. 10, 1978.

¹⁰² Section 21 was added by P.L. 95-166, 91 Stat. 1338, Nov. 10, 1977.

¹⁰³ Section 22 was added by P.L. 95-562, 92 Stat. 2866, Nov. 1, 1978.

the same payments and commodities as are provided to States for schools participating in the National School Lunch Program in the United States.

(b) The Secretary of Defense shall administer lunch programs authorized by this section and shall determine eligibility for free and reduced-price lunches under the criteria published by the Secretary of Agriculture, except that the Secretary of Defense shall prescribe regulations governing computation of income eligibility standards for families of students participating in the National School Lunch Program under this section.

(c) The Secretary of Defense shall be required to offer meals meeting nutritional standards prescribed by the Secretary of Agriculture; however, the Secretary of Defense may authorize deviations from Department of Agriculture prescribed meal patterns and fluid milk requirements when local conditions preclude strict compliance or when such compliance is impracticable.

(d) Funds are hereby authorized to be appropriated for any fiscal year in such amounts as may be necessary for the administrative expenses of the Department of Defense under this section and for payment of the difference between the value of commodities and payments received from the Secretary of Agriculture and (1) the full cost of each lunch for each student eligible for a free lunch, and (2) the full cost of each lunch, less any amounts required by law or regulation to be paid by each student eligible for a reduced-price lunch.

(e) The Secretary of Agriculture shall provide the Secretary of Defense with the technical assistance in the administration of the school lunch programs authorized by this section. (42 U.S.C. 1769b.)

STUDY OF MENU CHOICE

SEC. 22.¹⁰⁴ As a means of diminishing waste of foods without endangering nutritional integrity of meals served, the Secretary shall conduct a study to determine the cost and feasibility of requiring schools to offer a choice of menu items within the required meal patterns. This study shall, as a minimum, include different needs and capabilities of elementary and secondary schools for such a requirement. The Secretary shall develop regulations designed to diminish such waste based on the results of this study. (42 U.S.C. 1769c.)

¹⁰⁴ This section was added by section 9 of P.L. 95-627, 92 Stat. 3623, Nov. 10, 1978.

CHILD NUTRITION ACT OF 1966¹

AN ACT To strengthen and expand food service programs for children.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Child Nutrition Act of 1966". (42 U.S.C. 1771 note.)

DECLARATION OF PURPOSE

SEC. 2. In recognition of the demonstrated relationship between food and good nutrition and the capacity of children to develop and learn, based on the years of cumulative successful experience under the national school lunch program with its significant contributions in the field of applied nutrition research, it is hereby declared to be the policy of Congress that these efforts shall be extended, expanded, and strengthened under the authority of the Secretary of Agriculture as a measure to safeguard the health and well-being of the Nation's children, and to encourage the domestic consumption of agricultural and other foods, by assisting States, through grants-in-aid and other means, to meet more effectively the nutritional needs of our children. (42 U.S.C. 1771.)

SPECIAL MILK PROGRAM AUTHORIZATION

SEC. 3.² (a)³ There is hereby authorized to be appropriated for the fiscal year ending June 30, 1970, and for each succeeding fiscal year such sums as may be necessary to enable the Secretary of Agriculture, under such rules and regulations as he may deem in the public interest, to encourage consumption of fluid milk by children in the United States in (1) nonprofit schools of high school grade and under, which do not participate in a meal service program authorized under this Act or the National School Lunch Act,⁴ and (2) nonprofit nursery schools, child-care centers, settlement houses, summer camps, and similar nonprofit institutions devoted to the care and training of children, which do not participate in a meal service program authorized under this Act or the National School Lunch Act.⁴ For the purposes of this section "United States" means the fifty States, Guam, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pa-

¹ P.L. 89-642, 80 Stat. 885, Oct. 11, 1966.

² P.L. 91-295, 84 Stat. 336, June 30, 1970, authorized appropriations for years succeeding fiscal year 1970, substituted "June 30, 1969" for "June 30, 1966," and added "Guam." P.L. 93-347, 88 Stat. 341, July 12, 1974, substituted "such sums as may be necessary" for "not to exceed \$120,000,000."

³ Section 3 was redesignated as section 3(a) by section 813, P.L. 97-35, 95 Stat. 530, Aug 13, 1981.

⁴ Section 807, P.L. 97-35, 95 Stat. 527, Aug. 13, 1981 added the requirement that schools covered by this section may participate in the Special Milk Program only if the schools did not participate in any other program authorized under this Act or the National School Lunch Act.

cific Islands, and the District of Columbia.⁵ The Secretary shall administer the special milk program provided for by this section to the maximum extent practicable in the same manner as he administered the special milk program provided for by Public Law 89-642, as amended, during the fiscal year ending June 30, 1969. Any school or nonprofit child care institution which does not participate in a meal service program authorized under this Act or the National School Lunch Act⁴ shall receive the special milk program upon their request. Children who qualify for free lunches under guidelines established by the Secretary shall, at the option of the school involved (or of the local educational agency involved in the case of a public school) be eligible for free milk upon their request.⁶ For the fiscal year ending June 30, 1975, and for subsequent school years, the minimum rate of reimbursement for a half-pint of milk served in schools and other eligible institutions shall not be less than 5 cents per half-pint served to eligible children, and such minimum rate of reimbursement shall be adjusted on an annual basis each school year to reflect changes in the Producer Price Index for Fresh Processed Milk⁷ published by the Bureau of Labor Statistics of the Department of Labor. Such adjustment shall be computed to the nearest one-fourth cent.⁸ Notwithstanding the preceding two sentences, the rate of reimbursement per half-pint of milk, which is served to children who are not eligible for free milk in schools, child care institutions, and summer camps participating in meal service programs under the National School Lunch Act and this Act, shall be 5 cents.⁹ (42 U.S.C. 1772.)

(b)¹⁰ Commodity only schools shall not be eligible to participate in the special milk program under this section. For the purposes of the preceding sentence, the term "commodity only schools" means schools that do not participate in the school lunch program under the National School Lunch Act, but which receive commodities made available by the Secretary for use by such schools in nonprofit lunch programs.

SCHOOL BREAKFAST PROGRAM AUTHORIZATION

SEC. 4. (a)¹¹ There is hereby authorized to be appropriated such sums as are necessary to enable the Secretary to carry out a program to assist the States and the Department of Defense through grants-in-aid and other means to initiate, maintain, or expand non-

⁵This sentence was amended by section 15(1), P.L. 94-105, 89 Stat. 522, Oct. 7, 1975, which inserted the words between "Guam" and "the District of Columbia."

⁶This sentence was added by P.L. 93-150, 87 Stat. 563, Nov. 7, 1973, amended by P.L. 95-166, 91 Stat. 1337, Nov. 10, 1977, and revised by section 5(a), P.L. 95-627, 92 Stat. 3619, Nov. 10, 1978, effective July 1, 1979.

⁷This sentence was amended by (1) P.L. 93-347, 88 Stat. 341, July 12, 1974, by adding provisions setting a minimum rate of reimbursement for a half-pint of milk served in schools and other eligible institutions and allowing for an annual adjustment of the minimum rate; (2) P.L. 95-166, 91 Stat. 1346, Nov. 10, 1977, to place the reimbursements on a school year rather than fiscal year basis, effective July 1, 1977; and (3) P.L. 95-627, 92 Stat. 3619, Nov. 10, 1978, which substituted "Producer Price Index for Fresh Processed Milk," for "series of food away from home of the Consumer Price Index," effective July 1, 1979.

⁸This sentence was added by section 3(b), P.L. 93-347, 88 Stat. 341, July 12, 1974.

⁹Section 807, P.L. 97-35, 95 Stat. 527, Aug. 13, 1981, amended this section by deleting the eighth sentence which read "Notwithstanding any other provision of this section in no event shall the minimum rate of reimbursement exceed the cost to the school or institution of milk served to children."

¹⁰This sentence was added by section 209, P.L. 96-499, 94 Stat. 2602, Dec. 5, 1980.

¹¹This subsection was added by section 813, P.L. 97-35, 95 Stat. 530, Aug. 13, 1981.

¹²P.L. 90-302, 82 Stat. 119, May 8, 1968, authorized additional appropriations, deleted pilot program authority, and added the last sentence. P.L. 91-248, 84 Stat. 214, May 14, 1970, in-

profit breakfast programs in all schools which make application for assistance and agree to carry out a nonprofit breakfast program in accordance with this Act. Appropriations and expenditures for this Act shall be considered Health, Education, and Welfare * functions for budget purposes rather than functions of Agriculture.

APPORTIONMENT TO STATES

(b)(1)(A)¹² The Secretary shall make breakfast assistance payments to each State educational agency each fiscal year, at such times as the Secretary may determine, from the sums appropriated for such purpose, in an amount equal to the product obtained by multiplying—

(i) the number of breakfasts served during such fiscal year to children in schools in such States which participate in the school breakfast program under agreements with such State educational agency; by

(ii) the national average breakfast payment for free breakfasts, for reduced-price breakfasts, or for breakfasts served to children not eligible for free or reduced-price, meals, as appropriate, as prescribed in clause (B) of this paragraph.

(B) The national average payment for each free breakfast shall be 57 cents (as adjusted pursuant to section 11(a) of the National School Lunch Act). The national average payment for each reduced-price breakfast shall be one-half of the national average payment for each free breakfast, adjusted to the nearest one-fourth cent, except that in no case shall the difference between the amount of the national average payment for a free breakfast and the national average payment for a reduced-price breakfast exceed 30 cents. The national average payment for each breakfast served to a child not eligible for free or reduced-price meals shall be 8.25 cents (as adjusted pursuant to section 11(a) of the National School Lunch Act).

(C) No school which receives breakfast assistance payments under this section may charge a price of more than 30 cents for a reduced-price breakfast.

(D) No breakfast assistance payment may be made under this subsection for any breakfast served by a school unless such breakfast consists of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary under subsection (e) of this section.

(2)(A) The Secretary shall make additional payments for breakfasts served to children qualifying for a free or reduced-price meal at schools that are in severe need.

created the 1971 appropriation. P.L. 92-32, 85 Stat. 85, June 30, 1971, authorized 1972 and 1973 appropriations. P.L. 92-433, 86 Stat. 724, Sept. 26, 1972, authorized 1973, 1974 and 1975 appropriations and substituted "in all schools which make application for assistance and agree to carry out a nonprofit breakfast program in accordance with this Act" for "in schools." Section 2, P.L. 94-105, 89 Stat. 511, Oct. 7, 1975, deleted the authorization of appropriations for the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975. P.L. 95-961, 92 Stat. 2368, Nov. 1, 1978, added "and the Department of Defense."

* Section 509(b) of Public Law 96-88, 93 Stat. 695, Oct. 17, 1979, provides that any reference to the Secretary of Health, Education, and Welfare shall be deemed to refer to the Secretary of Health and Human Services.

¹² Subsection (b)(1) was completely revised by sec. 801, P.L. 97-35, 95 Stat. 522, Aug. 13, 1981.

(B) The maximum payment for each such free breakfast shall be the higher of—

(i) the national average payment established by the Secretary for free breakfast plus 10 cents, or

(ii) 45 cents, which shall be adjusted on an annual basis each July 1¹³ to the nearest one-fourth cent in accordance with changes in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor for the most recent twelve-month¹⁴ period for which such data are available, except that the initial such adjustment shall be made on January 1, 1978, and shall reflect the change in the series of food away from home during the period November 1, 1976, to October 31, 1977.

(C) The maximum payment for each such reduced-price breakfast shall be thirty¹⁵ cents less than the maximum payment for each free breakfast as determined under clause (B) of this paragraph.

STATE DISBURSEMENT TO SCHOOLS

(c) Funds apportioned and paid to any State for the purpose of this section shall be disbursed by the State educational agency to schools selected by the State educational agency to assist such schools in¹⁶ operating a breakfast program and for the purpose of subsection (d).¹⁷ Disbursement to schools shall be made at such rates per meal or on such other basis as the Secretary shall prescribe. In selecting schools for participation, the State educational agency shall, to the extent practicable, give first consideration to those schools drawing attendance from areas in which poor economic conditions exist, to those schools in which a substantial proportion of the children enrolled must travel long distances daily, and to those schools in which there is a special need for improving the nutrition and dietary practices of children of working mothers and children from low-income families.¹⁸ Breakfast assistance disbursements to schools under this section may be made in advance or by way of reimbursement in accordance with procedures prescribed by the Secretary.¹⁹

(d)(1)²⁰ Each State educational agency shall provide additional assistance to schools in severe need, which shall include only—

(A) those schools in which the service of breakfasts is required pursuant to State law; and

(B) those schools (having a breakfast program or desiring to initiate a breakfast program) in which, during the most recent second preceding school year for which lunches were served, 40

¹³ Section 801, P.L. 97-35, 95 Stat. 523, Aug. 13, 1981, substituted "on an annual basis each July 1" for "on a semiannual basis each July 1 and January 1".

¹⁴ Section 801, P.L. 97-35, 95 Stat. 523, Aug. 13, 1981, substituted "twelve-month" for "six-month".

¹⁵ Section 801, P.L. 97-35, 95 Stat. 523, Aug. 13, 1981, substituted "thirty" for "five".

¹⁶ Section 819, P.L. 97-35, 95 Stat. 533, Aug. 13, 1981, deleted the words "financing the costs of".

¹⁷ This sentence was substituted by P.L. 93-150, 87 Stat. 562, Nov. 7, 1973, for a provision authorizing assistance in financing the cost of obtaining food. P.L. 92-32, 85 Stat. 85, June 30, 1971, substituted "to assist such schools in financing the" for "to reimburse such schools for the".

¹⁸ P.L. 92-32, 85 Stat. 85, June 30, 1971, added the last group of schools.

¹⁹ This sentence was added by P.L. 93-433, 86 Stat. 725, Sept. 26, 1972.

²⁰ Section 801(c)(2), P.L. 97-35, 95 Stat. 523, Aug. 13, 1981, completely revised subsection (d).

percent or more of the lunches served to students at the school were served free or at a reduced-price, and in which the rate per meal established by the Secretary is insufficient to cover the costs of the breakfast program.

The provision of eligibility specified in clause (A) of this paragraph shall terminate effective July 1, 1983, for schools in States where the State legislatures meet annually and shall terminate effective July 1, 1984, for schools in States where the State legislatures meet biennially.

(2) A school, upon the submission of appropriate documentation about the need circumstances in that school and the school's eligibility for additional assistance, shall be entitled to receive 100 percent of the operating costs of the breakfast program, including the costs of obtaining, preparing, and serving food, or the meal reimbursement rate specified in paragraph (2) of section 4(b) of this Act, whichever is less.

NUTRITIONAL AND OTHER PROGRAM REQUIREMENTS

(e)²¹ Breakfasts served by schools participating in the school breakfast program under this section shall consist of a combination of foods and shall meet minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research. Such breakfasts shall be served free or at a reduced price to children in school under the same terms and conditions as are set forth with respect to the service of lunches free or at a reduced price in section 9 of the National School Lunch Act.

NONPROFIT PRIVATE SCHOOLS

(f)²² As a national nutrition and health policy, it is the purpose and intent of the Congress that the school breakfast program be made available in all schools where it is needed to provide adequate nutrition for children in attendance. The Secretary is hereby directed, in cooperation with State educational agencies, to carry out a program of information in furtherance of this policy. Within 4 months after the enactment of this subsection, the Secretary shall report to the committees of jurisdiction in the Congress his plans and those of the cooperating State agencies to bring about the needed expansion in the school breakfast program. (42 U.S.C. 1773.)

DISBURSEMENT TO SCHOOLS BY THE SECRETARY²³

SEC. 5. (a) The Secretary shall withhold funds payable to a State under this Act and disburse the funds directly to schools or institu-

²¹Original language was amended by P.L. 91-248, 84 Stat. 210, May 14, 1970, to prohibit identification of needy children; and P.L. 92-32, 85 Stat. 85, June 30, 1971, to insert additional language similar to that of National School Lunch Act. The present language was substituted by P.L. 92-433, 86 Stat. 725, Sept. 26, 1972.

²²This subsection was added by section 3, P.L. 94-105, 89 Stat. 511, Oct. 7, 1975 and redesignated as (f) by section 817, P.L. 97-35, 95 Stat. 532, which also repealed the prior subsection (f) dealing with the provision of funds to nonprofit private schools.

²³This section was repealed by section 805, P.L. 97-35, 95 Stat. 527, Aug. 13, 1981. Section 817, P.L. 97-35, 95 Stat. 532, Aug. 13, 1981, added a completely new section 5 authorized appropriations to carry out school food service programs. The prior provision was amended by P.L. 91-

tions within the State for the purposes authorized by this Act to the extent that the Secretary has so withheld and disbursed such funds continuously since October 1, 1980, but only to such extent (except as otherwise required by subsection (b)). Any funds so withheld and disbursed by the Secretary shall be used for the same purposes, and shall be subject to the same conditions, as applicable to a State disbursing funds made available under this Act. If the Secretary is administering (in whole or in part) any program authorized under this Act, the State in which the Secretary is administering the program may, upon request to the Secretary, assume administration of that program.

(b) If a State educational agency is not permitted by law to disburse the funds paid to it under this Act to any of the nonpublic schools in the State, the Secretary shall disburse the funds directly to such schools within the State for the same purposes and subject to the same conditions as are authorized or required with respect to the disbursements to public schools within the State by the State educational agency.

PAYMENTS TO STATES

SEC. 6. The Secretary shall certify to the Secretary of the Treasury from time to time the amounts to be paid to any State under sections 3 through 7 of this Act and the time or times such amounts are to be paid; and the Secretary of the Treasury shall pay to the State at the time or times fixed by the Secretary the amounts so certified. (42 U.S.C. 1775.)

STATE ADMINISTRATIVE EXPENSES

SEC. 7.²⁴ (a) ²⁵(1) Each fiscal year, the Secretary shall make available to the States for their administrative costs an amount equal to not less than 1½ percent of the Federal funds expended under sections 4, 11 and 17 of the National School Lunch Act and 3 and 4²⁶ of this Act during the second preceding fiscal year. The Secretary shall allocate the funds so provided in accordance with paragraphs (2), (3), and (4) of this subsection. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

248, 84 Stat. 208, May 14, 1970, to authorize appropriations for the 1971, 1972, 1973, and succeeding years; by P.L. 92-433, 86 Stat. 727, Sept. 26, 1972, to substitute the authorization for 1973 and succeeding fiscal years for the previous authorization; by section 5, P.L. 93-326, 88 Stat. 287, June 30, 1974, to change "\$20,000,000" to "\$40,000,000"; by P.L. 95-166, 91 Stat. 1332, Nov. 10, 1977, to change the heading "Nonfood Assistance Program Authorization" to "Food Service Equipment Assistance"; and by section 211, P.L. 96-499, 94 Stat. 2603, Dec. 5, 1980, to limit authorization to \$15,000,000 for fiscal year 1981, \$30,000,000 for fiscal year 1982, \$35,000,000 for fiscal year 1983 and \$40,000,000 for each succeeding year.

²⁴This section was amended by P.L. 90-302, 82 Stat. 119, May 8, 1968, and P.L. 91-248, 84 Stat. 210, May 14, 1970. The section was completely revised by P.L. 95-166, 91 Stat. 1338, Nov. 10, 1977. Under the prior provision, funds were made available in amounts determined by the Secretary for additional child nutrition program activities undertaken by the States. Section 201, P.L. 96-499, 94 Stat. 2599, Dec. 5, 1980, for fiscal year 1981, reduced the national average payment rate under section 4 of the National School Lunch Act by 2½ cents in all schools where less than 60 percent of the lunches served were provided at no cost or at a reduced price. Section 201 further provided that the amount of state administrative expense funds available to States under this section not be reduced as a result of the 2½ cent rate reductions.

²⁵This subsection was completely revised by P.L. 95-627, 92 Stat. 3621, Nov. 10, 1978.

²⁶Section 819 of P.L. 97-35, 95 Stat. 533, Aug. 13, 1981 deleted references to section 5.

(2) The Secretary shall allocate to each State for administrative costs incurred in any fiscal year in connection with the programs authorized under the National School Lunch Act or under this Act, except for the programs authorized under section 13 or 17 of the National School Lunch Act or under section 17 of this Act, an amount equal to not less than 1 percent and not more than 1½ percent of the funds expended by each State under sections 4 and 11 of the National School Lunch Act and sections 3 and 4²⁷ of this Act during the second preceding fiscal year. In no case shall the grant available to any State under this subsection be less than the amount such State was allocated in the fiscal year ending September 30, 1981,²⁸ or \$100,000, whichever is larger.

(3) The Secretary shall allocate to each State for its administrative costs incurred under the program authorized by section 17 of the National School Lunch Act in any fiscal year an amount, based upon funds expended under that program in the second preceding fiscal year, equal to (A) 20 percent of the first \$50,000, (B) 10 percent of the next \$100,000, (C) 5 percent of the next \$250,000, and (D) 2½ percent of any remaining funds. The Secretary may adjust any State's allocation to reflect changes in the size of its program.

(4) The remaining funds appropriated under this section shall be allocated among the States by the Secretary in amounts the Secretary determines necessary for the improvement in the States of the administration of the programs authorized under the National School Lunch Act and this Act, except for section 17 of this Act, including, but not limited to, improved program integrity and the quality of meals served to children.

(5) Funds available to States under this subsection and under section 13(k)(1) of the National School Lunch Act shall be used for the costs of administration of the programs for which the allocations are made, except that States may transfer up to 10 percent of any of the amounts allocated among such programs.

(6) Where the Secretary is responsible for the administration of programs under this Act or the National School Lunch Act, the amount of funds that would be allocated to the State agency under this section and under section 13(k)(1) of the National School Lunch Act shall be retained by the Secretary for the Secretary's use in the administration of such programs.

(b) The Secretary, in cooperation with the several States, shall develop State staffing standards for the administration by each State of sections 4, 11, and 17 of the National School Lunch Act and sections 3 and 4²⁹ of this Act, that will ensure sufficient staff for the planning and administration of programs covered by State administrative expenses.

(c) Funds paid to a State under subsection (a) of this section may be used to pay salaries, including employee benefits and travel expenses, for administrative and supervisory personnel; for support services; for office equipment; and for staff development.

²⁷ See footnote 26, *supra*.

²⁸ "September 30, 1981" was substituted for "September 30, 1978" by section 814, P.L. 97-35, 95 Stat. 531, Aug. 13, 1981.

²⁹ See footnote 26, *supra*.

(d) If any State agency agrees to assume responsibility for the administration of food service programs in nonprofit private schools or child care institutions that were previously administered by the Secretary, an appropriate adjustment shall be made in the administrative funds paid under this section to the State not later than the succeeding fiscal year.

(e)³⁰ Notwithstanding any other provision of law, funds made available to each State under this section shall remain available for obligation and expenditure by that State during the fiscal year immediately following the fiscal year for which such funds were made available. For each fiscal year the Secretary shall establish a date by which each State shall submit to the Secretary a plan for the disbursement of funds provided under this section for each such year, and the Secretary shall reallocate any unused funds, as evidenced by such plans, to other States as the Secretary considers appropriate.

(f) The State may use a portion of the funds available under this section to assist in the administration of the commodity distribution program.

(g) Each State shall submit to the Secretary for approval by October 1 of each year an annual plan for the use of State administrative expense funds, including a staff formula for State personnel, system level supervisory and operating personnel, and school level personnel.

(h) Payments of funds under this section shall be made only to States that agree to maintain a level of funding out of State revenues, for administrative costs in connection with programs under this Act (except section 17 of this Act) and the National School Lunch Act (except section 13 of that Act), not less than the amount expended or obligated in fiscal year 1977.

(i) For the fiscal years beginning October 1, 1977, and ending September 30, 1984,³¹ there are hereby authorized to be appropriated such sums as may be necessary for the purposes of this section. (42 U.S.C. 1776.)

UTILIZATION OF FOODS

SEC. 8. Each school participating under section 4 of this Act shall, insofar as practicable, utilize in its program foods designated from time to time by the Secretary as being in abundance, either nationally or in the school area, or foods donated by the Secretary. Foods available under section 416 of the Agricultural Act of 1949 (63 Stat. 1058), as amended, or purchased under section 32 of the Act of August 24, 1935 (49 Stat. 744), as amended, or section 709 of the Food and Agriculture Act of 1965 (79 Stat. 1212), may be donated by the Secretary to schools, in accordance with the needs as determined by local school authorities, for utilization in their feeding programs under this Act. (42 U.S.C. 1777).

³⁰ Subsection (e) was completely revised by section 814, P.L. 97-35, 95 Stat. 531, Aug. 13 1981.

³¹ Sec. 201(b)(2), P.L. 96-499, 94 Stat. 2600, Dec. 5, 1980, extended the authorization for section 7 to September 30, 1984.

NONPROFIT PROGRAMS

SEC. 9. The food and milk service programs in schools and non-profit institutions receiving assistance under this Act shall be conducted on a nonprofit basis. (42 U.S.C. 1778.)

REGULATIONS

SEC. 10.³² The Secretary shall prescribe such regulations as he may deem necessary to carry out this Act and the National School Lunch Act, including regulations relating to the service of food in participating schools and service institutions in competition with the programs authorized under this Act and the National School Lunch Act. Such regulations shall not prohibit the sale of competitive foods approved by the Secretary in food service facilities or areas during the time of service of food under this Act or the National School Lunch Act if the proceeds from the sales of such foods will inure to the benefit of the schools or of organizations of students approved by the schools.³³ In such regulations the Secretary may provide for the transfer of funds by any State between the programs authorized under this Act and the National School Lunch Act on the basis of an approved State plan of operation for the use of the funds and may provide for the reserve of up to 1 per centum of the funds available for apportionment to any State to carry out special developmental projects. (42 U.S.C. 1779.)

PROHIBITIONS

SEC. 11. (a) In carrying out the provisions of sections 3 and 4³⁴ of this Act, neither the Secretary nor the State shall impose any requirements with respect to teaching personnel, curriculum, instruction, methods of instruction, and materials of instruction.

(b) The value of assistance to children under this Act shall not be considered to be income or resources for any purpose under any Federal or State laws including, but not limited to, laws relating to taxation, welfare, and public assistance programs. Expenditures of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under this Act. (42 U.S.C. 1780.)

PRESCHOOL PROGRAMS

SEC. 12. The Secretary may extend the benefits of all school feeding programs conducted and supervised by the Department of Agriculture to include preschool programs operated as part of the school system. (42 U.S.C. 1781.)

CENTRALIZATION OF ADMINISTRATION

SEC. 13. Authority for the conduct and supervision of Federal programs to assist schools in providing food service programs for

³²P.L. 91-248, 84 Stat. 212, May 14, 1970, added the last portion of the first sentence beginning with "and the National School Lunch Act" and the last sentence.

³³This sentence was added by P.L. 92-433, 86 Stat. 729, Sept. 26, 1972, except the phrase "approved by the Secretary" after "competitive foods," which was added by P.L. 95-166, 91 Stat. 1345, Nov. 10, 1977.

³⁴Section 819, P.L. 97-35, 95 Stat. 533, Aug. 13, 1981, deletes references to section 5.

children is assigned to the Department of Agriculture. To the extent practicable, other Federal agencies administering programs under which funds are to be provided to schools for such assistance shall transfer such funds to the Department of Agriculture for distribution through the administrative channels and in accordance with the standards established under this Act and the National School Lunch Act. (42 U.S.C. 1782.)

APPROPRIATIONS FOR ADMINISTRATIVE EXPENSE

SEC. 14. There is hereby authorized to be appropriated for any fiscal year such sums as may be necessary to the Secretary for his administrative expense under this Act. (42 U.S.C. 1783.)

MISCELLANEOUS PROVISIONS AND DEFINITIONS

SEC. 15.³⁵ For the purpose of this Act—

(a) "State" means any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or the Trust Territory of the Pacific Islands.³⁶

(b) "State educational agency" means, as the State legislature may determine, (1) the chief State school officer (such as the State superintendent of public instruction, commissioner of education, or similar officer), or (2) a board of education controlling the State department of education.

(c) "School" means (A) any public or nonprofit private school of high school grade or under, including kindergarten and preschool programs operated by such school, except private schools whose average yearly tuition exceeds \$1,500 per child,³⁷ (B) any public or licensed nonprofit private residential child care institution (including, but not limited to, orphanages and homes for the mentally retarded, but excluding Job Corps Centers funded by the Department of Labor),³⁸ and (C) with respect to the Commonwealth of Puerto Rico, nonprofit child care centers certified as such by the Governor of Puerto Rico. For purposes of clauses (A) and (B) of this subsection, the term "nonprofit", when applied to any such private school or institution, means any such school or institution which is exempt from tax under section 501(c)(3) of the Internal Revenue Code of 1954.

(d) "Secretary" means the Secretary of Agriculture.

(e) "School year" means the annual period from July 1 through June 30.³⁹

(f)³⁹ Except as used in section 17 of this Act, the terms "child" and "children" as used in this Act, shall be deemed to include per-

³⁵This section was amended by section 17(b), P.L. 94-105, 89 Stat. 525, Oct. 7, 1975, which deleted paragraph (c), which had defined "nonprofit private schools" redesignated paragraphs (d) and (e) as (c) and (d), respectively, and amended the definition of "school" under the redesignated paragraph (c), P.L. 95-166, 91 Stat. 1346, Nov. 10, 1977, added the definition of "school year."

³⁶Section 15(c), P.L. 94-105, 89 Stat. 522, Oct. 7, 1975, substituted "American Samoa, or the Trust Territory of the Pacific Islands" for "or American Samoa."

³⁷Section 808, P.L. 97-35, 95 Stat. 527, Aug. 13, 1981 added the exception for schools whose tuition exceeds \$1,500.

³⁸Section 212, P.L. 96-499, 94 Stat. 2603, Dec. 7, 1980, added the phrase ", but excluding Job Corp Centers funded by the Department of Labor".

³⁹Section 10(c), P.L. 95-627, 92 Stat. 3624, Nov. 10, 1978, amended the definition of school year from July 1 through June 30. P.L. 95-627 also added subsection (f).

sons regardless of age who are determined by the State educational agency, in accordance with regulations prescribed by the Secretary, to be mentally or physically handicapped and who are attending any nonresidential public or nonprofit private school of high school grade or under for the purpose of participating in a school program established for mentally or physically handicapped. (42 U.S.C. 1784.)

ACCOUNTS AND RECORDS

SEC. 16. (a)⁴⁰ States, State educational agencies, schools, and nonprofit institutions participating in programs under this Act shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with this Act and the regulations hereunder. Such accounts and records shall at all times be available for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of three years, as the Secretary determines is necessary.

(b)⁴¹ With regard to any claim arising under this Act or under the National School Lunch Act, the Secretary shall have the authority to determine the amount of, to settle and to adjust any such claim, and to compromise or deny such claim or any part thereof. The Secretary shall also have the authority to waive such claims if the Secretary determines that to do so would serve the purposes of either such Act. Nothing contained in this subsection shall be construed to diminish the authority of the Attorney General of the United States under section 516 of title 28, United States Code, to conduct litigation on behalf of the United States. (42 U.S.C. 1785.)

SPECIAL SUPPLEMENTAL FOOD PROGRAM

SEC. 17.⁴² (a) Congress finds that substantial numbers of pregnant, postpartum, and breastfeeding women, infants, and young children from families with inadequate income are at special risk with respect to their physical and mental health by reason of inadequate nutrition or health care, or both. It is, therefore, the purpose of the program authorized by this section to provide, up to the authorization levels set forth in subsection (g) of this section, supplemental foods and nutrition education through any eligible local agency that applies for participation in the program. The program shall serve as an adjunct to good health care, during critical times of growth and development, to prevent the occurrence of health problems and improve the health status of these persons.

(b) As used in this section—

(1) "Administrative costs" means costs that shall include, but not be limited to, costs for certification of eligibility of persons for participation in the program; centrifuges, measuring

⁴⁰ Section 16 was redesignated as section 16(a) by section 816, P.L. 97-35, 95 Stat. 531, Aug. 13, 1981.

⁴¹ This subsection was added by section 816, P.L. 97-35, 95 Stat. 531, Aug. 13, 1981.

⁴² This section was added by P.L. 92-433, 86 Stat. 729, Sept. 26, 1972, extensively amended by sec. 14, P.L. 94-105, 89 Stat. 518, Oct. 7, 1975, and completely revised by section 3, P.L. 95-627, 92 Stat. 3611, Nov. 10, 1978.

boards, spectrophotometers, and scales used for such certification; food delivery; monitoring; nutrition education; outreach; start-up costs; and general administration applicable to implementation of the program under this section, such as the cost of staff, warehouse facilities, transportation, insurance, developing and printing food instruments, and administration of State and local agency offices.

(2) "Breastfeeding women" means women up to one year postpartum who are breastfeeding their infants.

(3) "Children" means persons who have had their first birthday but have not yet attained their fifth birthday.

(4) "Competent professional authority" means physicians, nutritionists, registered nurses, dieticians, or State or local medically trained health officials, or persons designated by physicians or State or local medically trained health officials, in accordance with standards prescribed by the Secretary, as being competent professionally to evaluate nutritional risk.

(5) "Infants" means persons under one year of age.

(6) "Local agency" means a public health or welfare agency or a private nonprofit health or welfare agency, which, directly or through an agency or physician with which it has contracted, provides health services. The term shall include an Indian tribe, band, or group recognized by the Department of the Interior, the Indian Health Service of the Department of Health, Education, and Welfare, or an intertribal council or group that is an authorized representative of Indian tribes, bands, or groups recognized by the Department of the Interior.

(7) "Nutrition education" means individual or group sessions and the provision of materials designed to improve health status that achieve positive change in dietary habits, and emphasize relationships between nutrition and health, all in keeping with the individual's personal, cultural, and socioeconomic preferences.

(8) "Nutritional risk" means (A) detrimental or abnormal nutritional conditions detectable by biochemical or anthropometric measurements, (B) other documented nutritionally related medical conditions, (C) dietary deficiencies that impair or endanger health, or (D) conditions that predispose persons to inadequate nutritional patterns or nutritionally related medical conditions, including, but not limited to, alcoholism and drug addiction.

(9) "Plan of operation and administration" means a document that describes the manner in which the State agency intends to implement and operate the program.

(10) "Postpartum women" means women up to six months after termination of pregnancy.

(11) "Pregnant women" means women determined to have one or more fetuses in utero.

(12) "Secretary" means the Secretary of Agriculture.

(13) "State agency" means the health department or comparable agency of each State; an Indian tribe, band, or group recognized by the Department of the Interior; an intertribal council or group that is the authorized representative of Indian tribes, bands, or groups recognized by the Department of the

Interior; or the Indian Health Service of the Department of Health, Education, and Welfare.

(14) "Supplemental foods" means those foods containing nutrients determined by nutritional research to be lacking in the diets of pregnant, breastfeeding, and postpartum women, infants, and children, as prescribed by the Secretary. State agencies may, with the approval of the Secretary, substitute different foods providing the nutritional equivalent of foods prescribed by the Secretary, to allow for different cultural eating patterns.

(c)(1) The Secretary may carry out a special supplemental food program to assist State agencies through grants-in-aid and other means to provide, through local agencies, at no cost, supplemental foods and nutrition education to low-income pregnant, postpartum, and breastfeeding women, infants, and children who satisfy the eligibility requirements specified in subsection (d) of this section. The program shall be supplementary to the food stamp program (91 Stat. 958) and to any program under which foods are distributed to needy families in lieu of food stamps.

(2) Subject to the authorization levels specified in subsection (g) of this section for the fiscal years ending September 30, 1979, and September 30, 1980, and subject to amounts appropriated for this program for the fiscal year ending September 30, 1981, and for each succeeding fiscal year ending on or before September 30, 1984.⁴³

(A) the Secretary shall make cash grants to State agencies for the purpose of administering the program, and

(B) any State agency approved eligible local agency that applies to participate in or expand the program under this section shall immediately be provided with the necessary funds to carry out the program.

(3) Nothing in this subsection shall be construed to permit the Secretary to reduce ratably the amount of foods that an eligible local agency shall distribute under the program to participants. The Secretary shall take affirmative action to ensure that the program is instituted in areas most in need of supplemental foods. The existence of a commodity supplemental food program under section 1304 of the Food and Agriculture Act of 1977 shall not preclude the approval of an application from an eligible local agency to participate in the program under this section nor the operation of such program within the same geographic area as that of the commodity supplemental food program, but the Secretary shall issue such regulations as are necessary to prevent dual receipt of benefits under the commodity supplemental food program and the program under this section.

(d)(1) Participation in the program under this section shall be limited to pregnant, postpartum, and breastfeeding women, infants, and children from low-income families who are determined by a competent professional authority to be at nutritional risk.

⁴³P.L. 95-627, 92 Stat. 3613, Nov. 10, 1978, added the words "for the fiscal years ending September 30, 1981, and September 30, 1982". Sec. 203(d), P.L. 96-499, 94 Stat. 2601, Dec. 5, 1980, deleted that phrase and inserted "for the fiscal year ending September 30, 1981, and for each succeeding fiscal year ending on or before September 30, 1984".

(2) The Secretary shall establish income eligibility standards to be used in conjunction with the nutritional risk criteria in determining eligibility of persons for participation in the program. Persons at nutritional risk shall be eligible for the program only if they are members of families that satisfy the income standards prescribed for free and reduced-price school meals under section 9 of the National School Lunch Act.

(3) Persons shall be certified for participation in accordance with general procedures prescribed by the Secretary.

(e)(1) The State agency shall ensure that nutrition education is provided to all pregnant, postpartum, and breastfeeding participants in the program and to parents or caretakers of infant and child participants in the program. The State agency may also provide nutrition education to pregnant, postpartum, and breastfeeding women and to parents or caretakers of infants and children enrolled at local agencies operating the program under this section who do not participate in the program. The Secretary shall prescribe standards to ensure that adequate nutrition education services are provided. The State agency shall provide training to persons providing nutrition education under this section. Nutrition education shall be evaluated annually by each State agency, and such evaluation shall include the views of participants concerning the effectiveness of the nutrition education they have received.

(2) The Secretary shall, after submitting proposed nutrition education materials to the Secretary of Health, Education, and Welfare for comment, issue such materials for use in the program under this section.

(f)(1) Each State agency shall submit annually to the Secretary, by a date specified by the Secretary, a plan of operation and administration for approval by the Secretary as a prerequisite to receiving funds under this section. The plan shall include, among such other information as the Secretary may require—

(A) a description of how the State agency will distribute administrative funds, including start-up funds to local agencies operating under the program;

(B) a description of the State agency's financial management system;

(C) a description of methods used to determine nutritional risk;

(D) a budget for administrative funds;

(E) the staffing pattern;

(F) nutrition education goals and action plans, including a description of the methods that will be used to meet the special nutrition education needs of migrants and Indians;

(G) plans to provide program benefits under this section to eligible migrants and Indians;

(H) a list of all areas and special populations, in priority order based on relative need, within the jurisdiction of the State agency, and the State agency's plans to initiate or expand operations under the program in areas most in need of supplemental foods, including plans to inform nonparticipating local agencies of the availability and benefits of the program and the availability of technical assistance in implementing the program, and a description of how the State agency will

take all reasonable actions to identify potential local agencies and encourage such agencies to implement or expand operations under the program within the following year in the neediest one-third of all areas unserved or partially served;

(I) a description of how the State agency's delivery system will enable low-income persons to receive supplemental foods under this program, in accordance with standards developed by the Secretary;

(J) the State agency's plans for informing eligible persons of the program under this section in accordance with paragraph (8) of this subsection;

(K) a description of how the State agency plans to coordinate operations under the program with special counseling services such as, but not limited to, the expanded food and nutrition education program, family planning, immunization, prenatal care, well-child care, alcohol and drug abuse counseling, child abuse counseling, and with the food stamp program; and

(L) a copy of the procedure manual developed by the State agency for the program under this section.

The Secretary shall not approve any plan that permits any person to participate simultaneously in both the program authorized under this section and the commodity supplemental food program under section 1304 of the Food and Agriculture Act of 1977.

(2) Not less than one month prior to the submission to the Governor of the plan of operation and administration required by this subsection, the State agency shall conduct hearings to enable the general public to participate in the development of the State agency plan.

(3) The Secretary shall establish procedures under which eligible migrants may, to the maximum extent feasible, continue to participate in the program under this section when they are present in States other than the State in which they were originally certified for participation in the program. Each State agency shall be responsible for administering the program for migrant populations within its jurisdiction.

(4) State agencies shall submit monthly financial reports and participation data to the Secretary.

(5) State and local agencies operating under the program shall keep such accounts and records, including medical records, as may be necessary to enable the Secretary to determine whether there has been compliance with this section and to determine and evaluate the benefits of the nutritional assistance provided under this section. Such accounts and records shall at all times be available for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of five years, as the Secretary determines necessary.

(6) The State agency, upon receipt of a completed application from a local agency for participation in the program (and the Secretary, upon receipt of a completed application from a State agency), shall notify the applicant agency in writing within thirty days of the approval or disapproval of the application, and any disapproval shall be accompanied with a statement of the reasons for such disapproval. Within fifteen days after receipt of an incomplete application, the State agency (or the Secretary) shall notify the ap-

plicant agency of the additional information needed to complete the application.

(7) Local agencies participating in the program under this section shall notify persons of their eligibility or ineligibility for the program within twenty days of the date that the household, during office hours of a local agency, personally makes an oral or written request to participate in the program. The Secretary shall establish a shorter notification period for categories of persons who, due to special nutritional risk conditions, must receive benefits more expeditiously.

(8) The State agency shall, in cooperation with participating local agencies, publicize the availability of program benefits, including the eligibility criteria for participation and the location of local agencies operating the program. Such information shall be publicly announced by the State agency and by local agencies at least annually. Such information shall also be distributed to offices and organizations that deal with significant numbers of potentially eligible persons, including health and medical organizations, hospitals and clinics, welfare and unemployment offices, social service agencies, farmworker organizations, Indian tribal organizations, and religious and community organizations in low income areas.

(9) The State agency shall grant a fair hearing, and a prompt determination thereafter, in accordance with regulations issued by the Secretary, to any applicant, participant, or local agency aggrieved by the action of a State or local agency as it affects participation.

(10) If a person certified as eligible for participation in the program under this section in one area moves to another area in which the program is operating, that person's certification of eligibility shall remain valid for the period for which the person was originally certified.

(11) The Secretary shall establish standards for the proper, efficient, and effective administration of the program, including standards that will ensure sufficient State agency staff. If the Secretary determines that a State agency has failed without good cause to administer the program in a manner consistent with this section or to implement the approved plan of operation and administration under this subsection, the Secretary may withhold such amounts of the State agency's administrative funds as the Secretary deems appropriate. Upon correction of such failure during a fiscal year by a State agency, any funds so withheld for such fiscal year shall be provided the State agency.

(12) The Secretary shall prescribe by regulation the supplemental foods to be made available in the program under this section. To the degree possible, the Secretary shall assure that the fat, sugar, and salt content of the prescribed foods is appropriate. Products specifically designed for pregnant, postpartum, and breastfeeding women, or infants shall be available at the discretion of the Secretary if the products are commercially available or are justified to and approved by the Secretary based on clinical tests performed in accordance with standards prescribed by the Secretary.

(13) A competent professional authority shall be responsible for prescribing the appropriate supplemental foods, taking into ac-

count medical and nutritional conditions and cultural eating patterns.

(14) The State agency shall (A) provide nutrition education materials and instruction in languages other than English and (B) use appropriate foreign language materials in the administration of the program, in areas in which a substantial number of low-income households speak a language other than English.

(g) There are hereby authorized to be appropriated \$550,000,000 for the fiscal year ending September 30, 1979, \$800,000,000 for the fiscal year ending September 30, 1980, \$900,000,000 for the fiscal year ending September 30, 1981, \$1,017,000,000 for the fiscal year ending September 30, 1982, \$1,060,000,000 for the fiscal year ending September 30, 1983, and \$1,126,000,000 for the fiscal year ending September 30, 1984,⁴⁴ for the purpose of carrying out the program authorized by this section. Of the sums appropriated for any fiscal year for the program under this section, one-half of 1 percent, not to exceed \$3,000,000, shall be available to the Secretary for the purpose of evaluating program performance, evaluating health benefits, and administration of pilot projects, including projects designed to meet the special needs of migrants, Indians, and rural populations.

(h)(1) The Secretary shall make 20 percent of the funds provided under this section each fiscal year (other than funds expended for evaluation and pilot projects under subsection (g) of this section) available for State agency and local agency administrative costs. When reallocating funds, the Secretary may exceed the 20 percent limitation for administrative costs if the Secretary determines such action necessary for the proper, efficient, and effective administration of the program. Not less than one-sixth of the funds expended by each State agency for administrative costs under this subsection shall be used for nutrition education activities, unless the State agency requests that it be authorized to expend a lesser amount and such request is accompanied by documentation that other funds will be used to conduct such activities.

(2) The Secretary, for each of the fiscal years 1979 through 1984,⁴⁵ shall allocate administrative funds to each State agency on the basis of a formula determined by the Secretary, which shall include a minimum amount, and which shall be designed to take into account the varying needs of State agencies based on factors such as the number of local agencies and the number of persons participating in the program at those agencies.

(3) Each State agency shall provide, from its allocation for administrative funds, funds to local agencies for their administrative costs. Each State agency shall distribute administrative funds to local agencies under allocation standards developed by the State agency in cooperation with the several local agencies, which satisfy allocation guidelines established by the Secretary. Such allocation standards shall take into account factors deemed appropriate to further proper, efficient, and effective administration of the pro-

⁴⁴The authorization for appropriations amounts for fiscal years 1982, 1983, and 1984 were added by section 815, P.L. 97-35, 95 Stat. 531, Aug. 13, 1981.

⁴⁵P.L. 95-627, 92 Stat. 3617, added "1982." Section 203(d)(3), P.L. 96-499, 92 Stat. 2601, Dec. 5, 1980, changed "1982" to "1984".

gram, such as local agency staffing needs, density of population, number of persons served, and availability of administrative support from other sources. These allocation standards shall be included in the plan of operation and administration required by subsection (f) of this section.

(4) The State agency shall forward in advance to local agencies those administrative funds necessary for successful commencement of program operations under this section during the three months following approval or until a program reaches its projected case-load level, whichever comes first.

(i) By the beginning of each fiscal year, the Secretary shall divide, among the State agencies, the funds provided in accordance with this section on the basis of a formula determined by the Secretary. Each State agency's allocation, as so determined, shall constitute the State agency's authorized operational level for that year, except that the Secretary shall reallocate funds periodically if the Secretary determines that a State agency is unable to spend its allocation. For purposes of the formula, if Indians are served by the health department of a State, the formula shall be based on the State population inclusive of the Indians within the State boundaries. If Indians residing in the State are served by a State agency other than the health department of the State, the population of the tribes within the jurisdiction of the State being so served shall not be included in the formula for such State, and shall instead be included in the formula for the State agency serving the Indians. Notwithstanding any other provision of this section, the Secretary may use a portion of a State agency's allocation to purchase supplemental foods for donation to the State agency under this section.

(j) By October 1 of each year, the Secretary shall prepare a report describing plans to ensure that, to the maximum extent feasible, eligible members of migrant populations continue to participate in the program as such persons move among States. The report shall be made available to the National Advisory Council on Maternal, Infant, and Fetal Nutrition.

(k)(1) There is hereby established a National Advisory Council on Maternal, Infant, and Fetal Nutrition (referred to in this subsection as the "Council") composed of twenty-one members appointed by the Secretary. One member shall be a State director of a program under this section; one member shall be a State official responsible for a commodity supplemental food program under section 1304 of the Food and Agriculture Act of 1977; one member shall be a State fiscal officer of a program under this section (or the equivalent thereof); one member shall be a State health officer (or the equivalent thereof); one member shall be a local agency director of a program under this section in an urban area; one member shall be a local agency director of a program under this section in a rural area; one member shall be a project director of a commodity supplemental food program; one member shall be a State public health nutrition director (or the equivalent thereof); one member shall be a representative of an organization serving migrants; one member shall be an official from a State agency predominantly serving Indians; three members shall be parent participants of a program under this section or of a commodity supplemental food program; one member shall be a pediatrician; one

member shall be an obstetrician; one member shall be a representative of a nonprofit public interest organization that has experience with and knowledge of the special supplemental food program; one member shall be a person involved at the retail sales level of food in the special supplemental food program; two members shall be officials of the Department of Health, Education, and Welfare * appointed by the Secretary of Health, Education, and Welfare; * and two members shall be officials of the Department of Agriculture appointed by the Secretary.

(2) Members of the Council appointed from outside the Department of Agriculture and the Department of Health, Education, and Welfare * shall be appointed for terms not exceeding three years. State and local officials shall serve only during their official tenure, and the tenure of parent participants shall not exceed two years. Persons appointed to complete an unexpired term shall serve only for the remainder of such term.

(3) The Secretary shall designate a Chairman and a Vice Chairman. The Council shall meet at the call of the Chairman, but shall meet at least once a year. Eleven members shall constitute a quorum.

(4) The Council shall make a continuing study of the operation of the program under this section and related programs to determine how the program may be improved. The Council shall submit once every two years to the President and Congress, beginning with the fiscal year ending September 30, 1980, a written report, together with its recommendations on such program operations.

(5) The Secretary shall provide the Council with such technical and other assistance, including secretarial and clerical assistance, as may be required to carry out its functions.

(6) Members of the Council shall serve without compensation but shall be reimbursed for necessary travel and subsistence expenses incurred by them in the performance of the duties of the Council. Parent participant members of the Council, in addition to reimbursement for necessary travel and subsistence, shall, at the discretion of the Secretary, be compensated in advance for other personal expenses related to participation on the Council, such as child care expenses and lost wages during scheduled Council meetings.

(1) Foods available under section 416 of the Agriculture Act of 1949, including, but not limited to, dry milk, or purchased under section 32 of the Act of August 24, 1935, may be donated by the Secretary, at the request of a State agency, for distribution to programs conducted under this section. The Secretary may purchase and distribute, at the request of a State agency, supplemental foods for donation to programs conducted under this section, with appropriated funds, including funds appropriated under this section. (42 U.S.C. 1786.)

[NOTE.—Section 14 of P.L. 95-627 gives the Secretary authority to make the necessary changes in the income poverty guidelines for

* Section 509(b) of Public Law 96-88, 93 Stat. 695, Oct. 17, 1979, provides that any reference to the Secretary of Health, Education, and Welfare shall be deemed to refer to the Secretary of Health and Human Services.

the special supplemental food program not earlier than October 1, 1978, and not later than July 1, 1979.]

CASH GRANTS FOR NUTRITION EDUCATION

SEC. 18.⁴⁶ (a) The Secretary is hereby authorized and directed to make cash grants to State educational agencies for the purpose of conducting experimental or demonstration projects to teach school-children the nutritional value of foods and the relationship of nutrition to human health.

(b) In order to carry out the program, provided for in subsection (a) of this section, there is hereby authorized to be appropriated not to exceed \$1,000,000 annually. The Secretary shall withhold not less than 1 per centum of any funds appropriated under this section and shall expend these funds to carry out research and development projects relevant to the purpose of this section, particularly to develop materials and techniques for the innovative presentation of nutritional information. (42 U.S.C. 1787.)

NUTRITION EDUCATION AND TRAINING

SEC. 19.⁴⁷ (a) Congress finds that—

(1) the proper nutrition of the Nation's children is a matter of highest priority;

(2) the lack of understanding of the principles of good nutrition and their relationship to health can contribute to a child's rejection of highly nutritious foods and consequent plate waste in school food service operations;

(3) many school food service personnel have not had adequate training in food service management skills and principles, and many teachers and school food service operators have not had adequate training in the fundamentals of nutrition or how to convey this information so as to motivate children to practice sound eating habits;

(4) parents exert a significant influence on children in the development of nutritional habits and lack of nutritional knowledge on the part of parents can have detrimental effects on children's nutritional development; and

(5) there is a need to create opportunities for children to learn about the importance of the principles of good nutrition in their daily lives and how these principles are applied in the school cafeteria.

PURPOSE

(b) It is the purpose of this section to encourage effective dissemination of scientifically valid information to children participating or eligible to participate in the school lunch and related child nutrition programs by establishing a system of grants to State educational agencies for the development of comprehensive nutrition information and education programs. Such nutrition education programs shall fully use as a learning laboratory the school lunch and child nutrition programs.

⁴⁶ This section was added by section 23, P.L. 94-105, 89 Stat. 528, Oct. 7, 1975.

⁴⁷ This section was added by P.L. 95-166, 91 Stat. 1340, Nov. 10, 1977.

DEFINITIONS

(c) For purposes of this section, the term "nutrition information and education program" means a multidisciplinary program by which scientifically valid information about foods and nutrients is imparted in a manner that individuals receiving such information will understand the principles of nutrition and seek to maximize their well-being through food consumption practices. Nutrition education programs shall include, but not be limited to, (A) instructing students with regard to the nutritional value of foods and the relationship between food and human health; (B) training school food service personnel in the principles and practices of food service management; (C) instructing teachers in sound principles of nutrition education; and (D) developing and using classroom materials and curricula.

NUTRITION INFORMATION AND TRAINING

(d)(1) The Secretary is authorized to formulate and carry out a nutrition information and education program, through a system of grants to State educational agencies, to provide for (A) the nutritional training of educational and food service personnel, (B) the food service management training of school food service personnel, and (C) the conduct of nutrition education activities in schools and child care institutions.

(2) The program is to be coordinated at the State level with other nutrition activities conducted by education, health, and State Cooperative Extension Service agencies. In formulating the program, the Secretary and the State may solicit the advice and recommendations of the National Advisory Council on Child Nutrition; State educational agencies; the Department of Health, Education, and Welfare;* and other interested groups and individuals concerned with improvement of child nutrition.

(3) If a State educational agency is conducting or applying to conduct a health education program which includes a school-related nutrition education component as defined by the Secretary, and that health education program is eligible for funds under programs administered by the Department of Health, Education, and Welfare, the Secretary may make funds authorized in this section available to the Department of Health, Education, and Welfare * to fund the nutrition education component of the State program without requiring an additional grant application.

(4) The Secretary, in carrying out the provisions of this subsection, shall make grants to State educational agencies who, in turn, may contract with land-grant colleges eligible to receive funds under the Act of July 2, 1862 (12 Stat. 503, as amended; 7 U.S.C. 301-305, 307, and 308), or the Act of August 30, 1890 (26 Stat. 417, as amended; 7 U.S.C. 321-326 and 328), including the Tuskegee Institute, other institutions of higher education, and nonprofit organizations and agencies, for the training of educational and school food service personnel with respect to providing nutrition educa-

* Section 509(b) of Public Law 96-88, 93 Stat. 695, Oct. 17, 1979, provides that any reference to the Secretary of Health, Education, and Welfare shall be deemed to refer to the Secretary of Health and Human Services.

tion programs in schools and the training of school food service personnel in school food service management. Such grants may be used to develop and conduct training programs for early childhood, elementary, and secondary educational personnel and food service personnel with respect to the relationship between food, nutrition, and health; educational methods and techniques, and issues relating to nutrition education; and principles and skills of food service management for cafeteria personnel.

(5) The State, in carrying out the provisions of this subsection, may contract with State and local educational agencies, land-grant colleges eligible to receive funds under the Act of July 2, 1862 (12 Stat. 503, as amended; 7 U.S.C. 301-305, 307, and 308), or the Act of August 30, 1890 (26 Stat. 417, as amended; 7 U.S.C. 321-326 and 328), including the Tuskegee Institute, other institutions of higher education, and other public or private nonprofit educational or research agencies, institutions, or organizations to pay the cost of pilot demonstration projects in elementary and secondary schools with respect to nutrition education. Such projects may include, but are not limited to, projects for the development, demonstration, testing, and evaluation of curricula for use in early childhood, elementary, and secondary education programs.⁴⁸

AGREEMENTS WITH STATE AGENCIES

(e) The Secretary is authorized to enter into agreements with State educational agencies incorporating the provisions of this section, and issue such regulations as are necessary to implement this section.

USE OF FUNDS

(f)(1) The funds made available under this section may, under guidelines established by the Secretary, be used by State education agencies for (A) employing a nutrition education specialist to coordinate the program, including travel and related personnel costs; (B) undertaking an assessment of the nutrition education needs of the State; (C) developing a State plan of operation and management for nutrition education; (D) applying for and carrying out planning and assessment grants; (E) pilot projects and related purposes; (F) the planning, development, and conduct of nutrition education programs and workshops for food service and educational personnel; (G) coordinating and promoting nutrition information and education activities in local school districts (incorporating, to the maximum extent practicable, as a learning laboratory, the child nutrition programs); (H) contracting with public and private nonprofit educational institutions for the conduct of nutrition education instruction and programs relating to the purposes of this section; and (I) related nutrition education purposes, including the preparation, testing, distribution, and evaluation of visual aids and other informational and educational materials.

(2) Any State desiring to receive grants authorized by this section may, from the funds appropriated to carry out this section, receive a planning and assessment grant for the purposes of carrying out

⁴⁸ Subsection 6 was repealed by section 817, P.L. 97-35, 95 Stat. 532, Aug. 13, 1981.

the responsibilities described in clauses (A), (B), (C), and (D) of paragraph (1) of this subsection. Any State receiving a planning and assessment grant, may, during the first year of participation, be advanced a portion of the funds necessary to carry out such responsibilities: *Provided*, That in order to receive additional funding, the State must carry out such responsibilities.

(3) An amount not to exceed 15 percent of each State's grant may be used for up to 50 percent of the expenditures for overall administrative and supervisory purposes in connection with the program authorized under this section.

(4) Nothing in this section shall prohibit State or local educational agencies from making available or distributing to adults nutrition education materials, resources, activities, or programs authorized under this section.

ACCOUNTS, RECORDS, AND REPORTS

(g)(1) State educational agencies participating in programs under this section shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with this section and the regulations issued hereunder. Such accounts and records shall at all times be available for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of five years, as the Secretary determines to be necessary.

(2) State educational agencies shall provide reports on expenditures of Federal funds, program participation, program costs, and related matters, in such form and at such times as the Secretary may prescribe.

STATE COORDINATORS FOR NUTRITION; STATE PLAN

(h)(1) In order to be eligible for assistance under this section, a State shall appoint a nutrition education specialist to serve as a State coordinator for school nutrition education. It shall be the responsibility of the State coordinator to make an assessment of the nutrition education needs in the State as provided in paragraph (2) of this subsection, prepare a State plan as provided in paragraph (3) of this subsection, and coordinate programs under this Act with all other nutrition education programs provided by the State with Federal or State funds.

(2) Upon receipt of funds authorized by this section, the State coordinator shall prepare an itemized budget and assess the nutrition education needs of the State. Such assessment shall include, but not be limited to, the identification and location of all students in need of nutrition education. The assessment shall also identify State and local individual, group, and institutional resources within the State for materials, facilities, staffs, and methods related to nutrition education.

(3) Within nine months after the award of the planning and assessment grant, the State coordinator shall develop, prepare, and furnish the Secretary, for approval, a comprehensive plan for nutrition education within such State. The Secretary shall act on such plan not later than sixty days after it is received. Each such plan shall describe (A) the findings of the nutrition education needs

assessment within the State; (B) provisions for coordinating the nutrition education program carried out with funds made available under this section with any related publicly supported programs being carried out within the State; (C) plans for soliciting the advice and recommendations of the National Advisory Council on Child Nutrition, the State educational agency, interested teachers, food nutrition professionals and paraprofessionals, school food service personnel, administrators, representatives from consumer groups, parents, and other individuals concerned with the improvement of child nutrition; (D) plans for reaching all students in the State with instruction in the nutritional value of foods and the relationships among food, nutrition, and health, for training food service personnel in the principles and skills of food service management, and for instructing teachers in sound principles of nutrition education; and (E) plans for using, on a priority basis, the resources of the land-grant colleges eligible to receive funds under the Act of July 2, 1862 (12 Stat. 503; 7 U.S.C. 301-305, 307, and 308), or the Act of August 30, 1890 (26 Stat. 417, as amended; 7 U.S.C. 321-326 and 328), including the Tuskegee Institute. To the maximum extent practicable, the State's performance under such plan shall be reviewed and evaluated by the Secretary on a regular basis, including the use of public hearings.

APPROPRIATIONS AUTHORIZED

(j)[sic](1) For the fiscal years beginning October 1, 1977, and October 1, 1978, grants to the States for the conduct of nutrition education and information programs shall be based on a rate of 50 cents for each child enrolled in schools or in institutions within the State, except that no State shall receive an amount less than \$75,000 per year.

(2) For the fiscal year ending September 30, 1980, and for each succeeding fiscal year ending on or before September 30, 1984,⁴⁹ there is hereby authorized to be appropriated for grants to each State for the conduct of nutrition education and information programs, an amount equal to the higher of (A) 50 cents for each child enrolled in schools or in institutions within each State, or (B) \$75,000 for each State. There is authorized to be appropriated for the grants referred to in the preceding sentence not more than \$15,000,000 for fiscal year 1981, and not more than \$5,000,000 for each subsequent fiscal year.⁵⁰ Grants to each State from such appropriations shall be based on a rate of 50 cents for each child enrolled in schools or in institutions within such State, except that no State shall receive an amount less than \$75,000 for that year. If funds appropriated for such year are insufficient to pay amount to which each State is entitled under the second preceding sentence, the amount of such grant shall be ratably reduced to the extent necessary so that the total of such amounts paid does not exceed

⁴⁹ Section 213(1), P.L. 96-499, 94 Stat. 2603, Dec. 5, 1980, inserted the clause "For the fiscal year ending September 30, 1980, and for each succeeding fiscal year ending on or before September 30, 1984".

⁵⁰ The authorization for appropriations for fiscal year 1981 (\$15,000,000 and \$5,000,000 for all subsequent years) was added by section 806, P.L. 97-35, 95 Stat. 527, Aug. 13, 1981. The prior language authorized appropriations of \$15,000,000 for fiscal year 1981 and all subsequent fiscal years.

the amount of appropriated funds. If additional funds become available for making such payments, such amounts shall be increased on the same basis as they were reduced.

(3) Enrollment data used for purposes of this subsection shall be the latest available as certified by the Office of Education of the Department of Health, Education, and Welfare. (42 U.S.C. 1788.)

DEPARTMENT OF DEFENSE OVERSEAS DEPENDANTS' SCHOOLS ⁵¹

SEC. 20. (a) For the purpose of obtaining Federal payments and commodities in conjunction with the provision of breakfasts to students attending Department of Defense dependents' schools which are located outside the United States, its territories or possessions, the Secretary of Agriculture shall make available to the Department of Defense, from funds appropriated for such purpose, the same payments and commodities as are provided to States for schools participating in the school breakfast program in the United States.

(b) The Secretary of Defense shall administer breakfast programs authorized by this section and shall determine eligibility for free and reduced-price breakfasts under the criteria published by the Secretary of Agriculture, except that the Secretary of Defense shall prescribe regulations governing computation of income eligibility standards for families of students participating in the school breakfast program under this section.

(c) The Secretary of Defense shall be required to offer meals meeting nutritional standards prescribed by the Secretary of Agriculture; however, the Secretary of Defense may authorize deviations from Department of Agriculture prescribed meal patterns and fluid milk requirements when local conditions preclude strict compliance or when such compliance is highly impracticable.

(d) Funds are hereby authorized to be appropriated for any fiscal year in such amounts as may be necessary for the administrative expenses of the Department of Defense under this section and for payment of the difference between the value of commodities and payments received from the Secretary of Agriculture and (1) the full cost of each breakfast for each student eligible for free breakfast, and (2) the full cost of each breakfast, less any amounts required by law or regulations to be paid by each student eligible for a reduced-price breakfast.

(e) The Secretary of Agriculture shall provide the Secretary of Defense with technical assistance in the administration of the school breakfast programs authorized by this section. (42 U.S.C. 1789.)

⁵¹ Section 20 was added by P.L. 95-561, 92 Stat. 2368, Nov. 1, 1978.

RELATED PROVISIONS OF LAW

SECTION 7—ACT OF NOVEMBER 5, 1971

(Public Law 92-153)¹

SEC. 7. In addition to any other authority given to the Secretary he is hereby authorized to transfer funds from section 32 of the Act of August 24, 1935, for the purpose of assisting schools which demonstrate a need for additional funds in the school breakfast program.

SECTION 1—ACT OF MAY 8, 1968

[NATIONAL SCHOOL LUNCH ACT, AMENDMENTS]

(Public Law 90-302)²

SEC. 1. * * * Appropriations shall be considered Health, Education, and Welfare* functions for budget purposes rather than functions of Agriculture.

SECTIONS 6(d) AND 13—CHILD NUTRITION AMENDMENTS OF 1978

(Public Law 95-627)

SEC. 6.³ * * *

ALTERNATE FOODS

(d) The Secretary shall not limit or prohibit, during the school year 1978-79, the use of formulated grain-fruit products currently approved for use in the school breakfast program. The Secretary shall consult experts in child nutrition, industry representatives, and school food service personnel and school administrators (including personnel and administrators in school systems using such products) with respect to the continued use of formulated grain-fruit products in the school breakfast program, and shall also take into account the findings and recommendations in the report on this subject of the General Accounting Office. The Secretary shall not promulgate a final rule disapproving the use of such products in the school breakfast program beyond the 1978-79 school year

¹ P.L. 92-153, 85 Stat. 419, Nov. 5, 1971, was a joint resolution to assure that every needy school child receive a free or reduced price lunch as required by sec. 9 of the National School Lunch Act.

(NOTE.—With the exception of section 4 of this Act which amends section 11(e) of the National School Lunch Act, and section 7 supra, Public Law 92-153 expired June 30, 1972.)

² 82 Stat. 117, May 8, 1968.

* Section 509(b) of Public Law 96-88, 93 Stat. 695, Oct. 17, 1979, provides that any reference to the Secretary of Health, Education, and Welfare shall be deemed to refer to the Secretary of Health and Human Services.

³ 94 Stat. 3621, Nov. 10, 1978.

until the Secretary has notified the appropriate committees of Congress, and such rule shall not take effect until sixty days after such notification. (42 U.S.C. 173 note.)

IMPLEMENTATION

SEC. 13. (a) The Secretary shall promulgate regulations to implement the provisions of section 3 of this Act⁴ within one hundred and twenty days of the date of enactment of this Act.

(b) The provisions of section 17 of the National School Lunch Act and section 17 of the Child Nutrition Act of 1966, in effect prior to the effective date of sections 2 and 3 of this Act, which are relevant to current regulations of the Secretary governing the child care food program and the special supplemental food program, respectively, shall remain in effect until such regulations are revoked, superseded, amended, or modified by regulations issued under those sections as amended by sections 2 and 3 of this Act.

(c) Pending proceedings under section 17 of the National School Lunch Act and section 17 of the Child Nutrition Act of 1966 shall not be abated by reason of any provision of sections 2 and 3 of this Act, but shall be disposed of under the applicable provisions of section 17 of the National School Lunch Act and section 17 of the Child Nutrition Act of 1966 in effect prior to the effective date of sections 2 and 3 of this Act.

(d) Appropriations made available to carry out section 17 of the National School Lunch Act and section 17 of the Child Nutrition Act of 1966 shall be available to carry out the provisions of sections 2 and 3 of this Act.⁵ (42 U.S.C. 1786 note.)

SECTION 3(c)—ACT OF AUGUST 18, 1978

(Public Law 95-348)

NORTHERN MARIANA ISLANDS

SEC. 3.⁶ * * *

(c) Notwithstanding the provisions of the Food Stamp Act of 1977, the Secretary of Agriculture is authorized, upon the request of the Governor of the Northern Mariana Islands, acting pursuant to legislation enacted in accordance with sections 5 and 7 of article II of the Constitution of Northern Mariana Islands, and for the period during which such legislation is effective, (1) to implement a food stamp program in part or all of the Northern Mariana Islands with such income and household standards of eligibility, deductions, and allotment values as the Secretary determines, after consultation with the Governor, to be suited to the economic and social circumstances of such islands: *Provided*, That in no event shall such income standards of eligibility exceed those in the forty-eight contiguous States, and (2) to distribute or permit a distribution of federally donated foods in any part of the Northern Mariana Islands for which the Governor has not requested that the food

⁴ Sec. 3, P.L. 95-627, extended the authorization for and extensively revised the Special Supplemental Food Program (WIC).

⁵ 92 Stat. 3625, Nov. 10, 1978.

⁶ 92 Stat. 489, Aug. 18, 1978.

stamp program be implemented. This authority shall remain in effect through September 30, 1981, and shall not apply to section 403 of Public Law 95-135.

SECTION 8 (c) AND (d)—ACT OF DECEMBER 31, 1973

(Public Law 93-233)

ELIGIBILITY OF SUPPLEMENTAL SECURITY INCOME RECIPIENTS FOR FOOD STAMPS

SEC. 8.⁷ * * *

(c) For purposes of section 6(g) of the Food Stamp Act of 1977 and subsections (b)(3) and (f) of this section, the level of State supplementary payment under section 1616(a) shall be found by the Secretary to have been specifically increased so as to include the bonus value of food stamps (1) only if, prior to October 1, 1973, the State has entered into an agreement with the Secretary or taken other positive steps which demonstrate its intention to provide supplementary payments under section 1616(a) at a level which is at least equal to the maximum level which can be determined under section 401(b)(1) of the Social Security Amendments of 1972 and which is such that the limitation on State fiscal liability under section 401 does result in a reduction in the amount which would otherwise be payable to the Secretary by the State, and (2) only with respect to such months as the State may, at its option, elect.

(d) Upon the request of a State, the Secretary shall find, for purposes of the provisions specified in subsection (c), that the level of such State's supplementary payments of the type described in section 1616(a) of the Social Security Act has been specifically increased for any month so as to include the bonus value of food stamps (and that such State meets the applicable requirements of subsection (c)(1)) if—

(1) the Secretary has found (under this subsection or subsection (c), as in effect in December 1980) that such State's supplementary payments in December 1980 were increased to include the bonus value of food stamps; and

(2) such State continues without interruption to meet the requirements of section 1618 of such Act for each month after the month referred to in paragraph (1) and up to and including the month for which the Secretary is making the determination.⁸

SECTION 1303—FOOD STAMP ACT OF 1977

(Public Law 95-113)

IMPLEMENTATION OF THE FOOD STAMP ACT OF 1977

SEC. 1303.⁹ (a) The Secretary of Agriculture shall implement the Food Stamp Act of 1977 as expeditiously as possible consistent with

⁷ 87 Stat. 956, Dec. 31, 1973.

⁸ Amended by Public Law 97-35, section 2342, 95 Stat. 866, Aug. 13, 1981, to make subsection (d) read as indicated.

⁹ 91 Stat. 973, Sept. 29, 1977.

the efficient and effective administration of the food stamp program. The provisions of the Food Stamp Act of 1964, as amended, which are relevant to current regulations of the Secretary governing the food stamp program, shall remain in effect until such regulations are revoked, superseded, amended, or modified by regulations issued pursuant to the Food Stamp Act of 1977. Coupons issued pursuant to the Food Stamp Act of 1964, as amended, and in general use as of the effective date of the Food Stamp Act of 1977, shall continue to be usable to purchase food, and all other liabilities of the Secretary, States, and applicant or participating households, under the Food Stamp Act of 1964, as amended, shall continue in force, until finally resolved or terminated by administrative or judicial action, or otherwise.

(b) Pending proceedings under the Food Stamp Act of 1964, as amended, shall not be abated by reason of any provision of the Food Stamp Act of 1977, but shall be disposed of pursuant to the applicable provisions of the Food Stamp Act of 1964, as amended, in effect prior to the effective date of the Food Stamp Act of 1977.

(c) Appropriations made available to carry out the Food Stamp Act of 1964, as amended, shall be available to carry out the provisions of the Food Stamp Act of 1977.

(d) The Secretary shall, within six months of enactment of this Act, submit a quarterly report to the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture, setting forth the previous quarter's expenditure, by State, for the food stamp program. Such report shall also include the number of individuals participating in the program and the cost of administering the program at each State level and at the national level. (7 U.S.C. 2011 note.)

AGRICULTURE, RURAL DEVELOPMENT AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1980

(Public Law 96-108)

TITLE III—DOMESTIC FOOD PROGRAMS ¹⁰ FOOD AND NUTRITION SERVICE CHILD NUTRITION PROGRAMS

For necessary expenses to carry out the provisions of the National School Lunch Act, as amended (42 U.S.C. 1751-1761, and 1766), and the applicable provisions other than section 3 of the Child Nutrition Act of 1966, as amended (42 U.S.C. 1773-1785, and 1787); \$3,114,301,000, of which \$1,279,215,000 is hereby appropriated, \$4,000,000 shall be derived from prior-year unobligated balances and \$1,831,086,000 shall be derived by transfer from funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), including \$80,000,000 for purchase and distribution of agricultural commodities and other foods pursuant to section 6 of the National School Lunch Act, as amended: *Provided*, That of the foregoing total amount there shall be available \$20,000,000 for the food service equipment assistance program: *Provided further*, That funds provided herein shall remain available until September 30, 1981, in accordance with section 3 of the National School Lunch Act, as

¹⁰ 93 Stat. 837-839, Nov. 9, 1979.

amended: *Provided further*, That only claims for reimbursement for meals served during fiscal year 1980 submitted to State agencies prior to January 1, 1981, shall be eligible for reimbursement: *Provided further*, That funds appropriated for the purpose of section 7 of the Child Nutrition Act of 1966, as amended, shall be allocated among the States but the distribution of such funds to an individual State is contingent upon that State's agreement to participate in studies and surveys of programs authorized under the National School Lunch Act, as amended, and the Child Nutrition Act of 1966, as amended, when such studies and surveys have been directed by the Congress and requested by the Secretary of Agriculture: *Provided further*, That if the Secretary of Agriculture determines that a State's administration of any program under the National School Lunch Act, as amended, or the Child Nutrition Act of 1966, as amended (other than section 17), or the regulations issued pursuant to these Acts, is seriously deficient, and the State fails to correct the deficiency within a specified period of time, the Secretary may withhold from the State some or all of the funds allocated to the State under section 7 of the Child Nutrition Act of 1966, as amended, and under section 13(k)(1) of the National School Lunch Act, as amended; upon a subsequent determination by the Secretary that the programs are operated in an acceptable manner some or all of the funds withheld may be allocated: *Provided further*, That no part of the funds appropriated in this Act for the summer food service program shall be available for payments to service institutions other than to: (1) public service institutions, (2) private nonprofit service institutions including residential camps which use self-preparation facilities to prepare meals or obtain meals from a public facility, such as a school district, public hospital, or State university, (3) private nonprofit schools including colleges and universities, (4) private nonprofit migrant farmworker organizations including those that purchase meals from a food service management company, (5) private nonprofit service institutions which serve not more than 500 children daily at not more than three sites and which purchase meals from a food service management company, and (6) in areas where no service institutions delineated in items (1) through (5) are available to operate the program, private nonprofit service institutions which purchase meals from a food service management company, determined by the Secretary of Agriculture to have a record of reliable and honest community service in feeding programs.

SPECIAL MILK PROGRAM

For necessary expenses to carry out the provisions of the special milk program, as authorized by section 3 of the Child Nutrition Act of 1966, as amended (42 U.S.C. 1772), \$142,000,000, to remain available until September 30, 1981.

SPECIAL SUPPLEMENTAL FOOD PROGRAMS (WIC)

For necessary expenses to carry out the provisions of the special supplemental food program as authorized by section 17 of the Child Nutrition Act of 1966, as amended (42 U.S.C. 1786), and the commodity supplemental food program as authorized by section 4(a) of

the Agriculture and Consumer Protection Act of 1973, as amended (7 U.S.C. 612c (note)), \$771,500,000, of which \$757,700,000 is hereby appropriated and \$13,800,000 is to be derived from prior-year balances, to remain available until September 30, 1981: *Provided*, That section 17(g) of the Child Nutrition Act of 1966, as amended, is hereby amended by striking out the numeral "800,000,000" and inserting in lieu thereof, "750,000,000".

FOOD STAMP PROGRAM

For necessary expenses to carry out the provisions of the Food Stamp Act, \$6,188,600,000: *Provided*, That funds provided herein shall remain available until September 30, 1980, in accordance with section 18(a) of the Food Stamp Act: *Provided further*, That up to 5 per centum of the foregoing amount may be placed in reserve to be apportioned pursuant to section 3679 of the Revised Statutes, as amended, for use only in such amounts and at such times as may become necessary to carry out program operations: *Provided further*, That no part of the funds appropriated by this Act shall be used during the fiscal year ending September 30, 1980, to make food stamps available to any household, to the extent that the amount otherwise available to such household is attributable to an individual who: (i) has reached his eighteenth birthday; (ii) is enrolled in an institution of higher education; and (iii) is properly claimed as a dependent child for Federal income tax purposes by a taxpayer who is not a member of an eligible household: *Provided further*, That funds provided herein shall be expended in accordance with section 16 of the Food Stamp Act.

FOOD DONATIONS PROGRAMS

For necessary expenses to carry out the provisions of section 4(a) of the Agriculture and Consumer Protection Act of 1973, as amended (7 U.S.C. 612c (note)), and section 311 of the Older Americans Act of 1965, \$90,290,000.

FOOD PROGRAM ADMINISTRATION

For necessary administrative expenses of the Domestic Food Programs funded under this Act, \$82,000,000; of which \$5,000,000 shall be available only for simplifying procedures, reducing overhead costs, tightening regulations, improving food stamp coupon handling, and assistance in the prevention, identification and prosecution of fraud and other violations of law: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$150,000 shall be available for employment under 5 U.S.C. 3109.

SUPPLEMENTAL APPROPRIATIONS AND RESCISSION ACT, 1980

(Public Law 96-304)

TITLE I

Chapter I

* * * * *

SPECIAL MILK PROGRAM ¹¹

For an additional amount for the "Special Milk Program", \$14,800,000: *Provided*, That none of the funds appropriated in this Act may be used for payments which exceed five cents per half-pint of milk served after September 1, 1980, which is served to children who are not eligible for free milk and which is served in schools, child care institutions, and summer camps participating in meal service programs authorized under the National School Lunch Act and the Child Nutrition Act of 1966.

AGRICULTURE, RURAL DEVELOPMENT AND RELATED AGENCIES
APPROPRIATIONS ACT, FISCAL YEAR 1981

(Public Law 96-528)

TITLE III—DOMESTIC FOOD PROGRAMS ¹² FOOD AND NUTRITION SERVICE
CHILD NUTRITION PROGRAMS

For necessary expenses to carry out the National School Lunch Act (42 U.S.C. 1751-1761, and 1766), and the applicable provisions other than section 3 of the Child Nutrition Act of 1966 (42 U.S.C. 1773-1785, and 1787); \$3,638,776,000, of which \$1,759,123,000 is hereby appropriated, and \$1,879,653,000 shall be derived by transfer from funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), including \$80,000,000 for purchase and distribution of agricultural commodities and other foods pursuant to section 6 of the National School Lunch Act: *Provided*, That of the foregoing total amount there shall be available \$15,000,000 for the food service equipment assistance program: *Provided further*, That funds provided herein shall remain available until September 30, 1982: *Provided further*, That only claims for reimbursement for meals served after September 1, 1980 submitted to State agencies prior to January 1982, shall be eligible for reimbursement: *Provided further*, That funds appropriated for the purpose of section 7 of the Child Nutrition Act of 1966 shall be allocated among the States but the distribution of such funds to an individual State is contingent upon that State's agreement to participate in studies and surveys of programs authorized under the National School Lunch Act and the Child Nutrition Act of 1966 when such studies and surveys have been directed by the Congress and requested by the Secretary of Agriculture: *Provided further*, That if the Secretary of Agriculture determines that a State's administration of any

¹¹ 94 Stat. 859, July 8, 1980.

¹² 94 Stat. 3112-3114, Dec. 15, 1980.

program under the National School Lunch Act or the Child Nutrition Act of 1966 (other than section 17), or the regulations issued pursuant to these Acts, is seriously deficient, and the State fails to correct the deficiency within a specified period of time, the Secretary may withhold from the State some or all of the funds allocated to the State under section 7 of the Child Nutrition Act of 1966 and under section 13(k)(1) of the National School Lunch Act; upon a subsequent determination by the Secretary that the programs are operated in an acceptable manner some or all of the funds withheld may be allocated: *Provided further*, That no part of the funds appropriated in this Act for the summer food service program shall be available for payments to service institutions other than to: (1) public service institutions, (2) private nonprofit service institutions including residential camps which use self-preparation facilities to prepare meals or obtain meals from a public facility, such as a school district, public hospital, or State university, (3) private nonprofit schools including colleges and universities, (4) private nonprofit migrant farmworker organizations including those that purchase meals from a food service management company, (5) private nonprofit service institutions which serve not more than 500 children daily at not more than three sites and which purchase meals from a food service management company, and (6) in areas where no service institutions delineated in items (1) through (5) are available to operate the program, private nonprofit service institutions which purchase meals from a food service management company, determined by the Secretary of Agriculture to have a record of reliable and honest community service in feeding programs: *Provided further*, That none of the funds appropriated in this Act shall be used to provide meal services at or for Job Corps Centers: *Provided further*, That \$285,000,000 of the amount appropriated herein shall be held in reserve until the Omnibus Reconciliation Act of 1980 is enacted or the 96th Congress adjourns *sine die*: *Provided further*, That upon enactment of the Omnibus Reconciliation Act of 1980, which requires reductions in Child Nutrition Program levels, \$285,000,000 of the amount herein appropriated shall be hereby rescinded, and the program level shall be reduced by a similar amount: *Provided further*, That, of the funds provided herein for the school lunch program, there shall be available \$1,975,000 with which the Secretary shall conduct a 3-year pilot project study in 60 school districts of all cash assistance and all commodity letter of credit assistance in lieu of commodities for the school lunch programs operated in such districts.

SPECIAL MILK PROGRAM

For necessary expenses to carry out the special milk program, as authorized by section 3 of the Child Nutrition Act of 1966 (42 U.S.C. 1772), \$118,800,000, to remain available until September 30, 1982: *Provided*, That only claims for reimbursement for milk served during fiscal year 1981 submitted to State agencies prior to January 1, 1982, shall be eligible for reimbursement: *Provided further*, That none of the funds appropriated in this Act may be used for payments which exceed 5 cents per half-pint of milk served after September 1, 1980, which is served to children who are not

eligible for free milk and which is served in schools, child care institutions, and summer camps participating in meal service programs authorized under the National School Lunch Act and the Child Nutrition Act of 1966.

SPECIAL SUPPLEMENTAL FOOD PROGRAMS (WIC)

For necessary expenses to carry out the special supplemental food program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), and the commodity supplemental food program as authorized by section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)), \$927,040,000: *Provided*, That funds provided herein shall remain available until September 30, 1982.

FOOD STAMP PROGRAM

For necessary expenses to carry out the Food Stamp Act (7 U.S.C. 2011-2027), \$9,451,276,000: *Provided*, That funds provided herein shall remain available until September 30, 1981, in accordance with section 18(a) of the Food Stamp Act: *Provided further*, That up to 5 per centum of the foregoing amount may be placed in reserve to be apportioned pursuant to section 3697 of the Revised Statutes, as amended, for use only in such amounts and at such times as may become necessary to carry out program operations: *Provided further*, That funds provided herein shall be expended in accordance with section 16 of the Food Stamp Act.

For an additional amount to carry out the Food Stamp Act (7 U.S.C. 2011-2027), \$288,000,000, should it become necessary after the Secretary has employed the regulatory and administrative methods available to him under the law to curtail fraud, waste and abuse in the program: *Provided*, That funds provided herein shall remain available until September 30, 1981.

FOOD DONATIONS PROGRAMS

For necessary expenses to carry out section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)), and section 311 of the Older Americans Act of 1965 (42 U.S.C. 303a), \$128,660,000.

FOOD PROGRAM ADMINISTRATION

For necessary administrative expenses of the Domestic Food Programs funded under this Act \$84,000,000; of which \$5,000,000 shall be available only for simplifying procedures, reducing overhead costs, tightening regulations, improving food stamp coupon handling, and assistance in the prevention, identification and prosecution of fraud and other violations of law: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$150,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That no funds appropriated in this or any other Act shall be used by the Secretary to administer directly in any State any program authorized under the National

School Lunch Act or the Child Nutrition Act of 1966 that the Secretary did not directly administer in fiscal year 1980.

AGRICULTURE, RURAL DEVELOPMENT, AND RELATED AGENCIES
APPROPRIATIONS ACT, FISCAL YEAR 1982

(Public Law 97-103)^{12a}

TITLE III—DOMESTIC FOOD PROGRAMS FOOD AND NUTRITION SERVICE
CHILD NUTRITION PROGRAMS

For necessary expenses to carry out the National School Lunch Act (42 U.S.C. 1751-1761, and 1766), and the applicable provisions other than section 3 of the Child Nutrition Act of 1966 (42 U.S.C. 1773-1785, and 1788); \$2,846,838,000, of which \$1,082,890,000 is hereby appropriated, and \$1,763,948,000 shall be derived by transfer from funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), including \$80,000,000 for purchase and distribution of agricultural commodities and other foods pursuant to section 6 of the National School Lunch Act: *Provided*, That funds provided herein shall remain available until September 30, 1983: *Provided further*, That only claims for reimbursement for meals served after September 1, 1981, submitted to State agencies prior to January 1983, shall be eligible for reimbursement: *Provided further*, That funds appropriated for the purpose of section 7 of the Child Nutrition Act of 1966 shall be allocated among the States but the distribution of such funds to an individual State is contingent upon that State's agreement to participate in studies and surveys of programs authorized under the National School Lunch Act and the Child Nutrition Act of 1966 when such studies and surveys have been directed by the Congress and requested by the Secretary of Agriculture: *Provided further*, That if the Secretary of Agriculture determines that a State's administration of any program under the National School Lunch Act or the Child Nutrition Act of 1966 (other than section 17), or the regulations issued pursuant to these Acts, is seriously deficient, and the State fails to correct the deficiency within a specified period of time, the Secretary may withhold from the State some or all of the funds allocated to the State under section 7 of the Child Nutrition Act of 1966 and under section 13(k)(1) of the National School Lunch Act; upon a subsequent determination by the Secretary that the programs are operated in an acceptable manner some or all of the funds withheld may be allocated.

SPECIAL MILK PROGRAM

For necessary expenses to carry out the special milk program, as authorized by section 3 of the Child Nutrition Act of 1966 (42 U.S.C. 1772), \$28,100,000, to remain available until September 30, 1983: *Provided*, That only claims for reimbursement for milk served during fiscal year 1982 submitted to State agencies prior to January 1, 1983, shall be eligible for reimbursement.

^{12a} 95 Stat. 1467, Dec. 23, 1980.

SPECIAL SUPPLEMENTAL FOOD PROGRAMS (WIC)

For necessary expenses to carry out the special supplemental food program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), and the commodity supplemental food program as authorized by section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)), \$973,000,000, of which not to exceed \$500,000 shall be available for the pilot supplemental food program when authorized by law: *Provided*, That funds provided herein shall remain available until September 30, 1983.

FOOD STAMP PROGRAM

For necessary expenses to carry out the Food Stamp Act (7 U.S.C. 2011-2028), \$10,001,384,000 for the period October 1, 1981, through August 15, 1982: *Provided*, That funds provided herein shall remain available until September 30, 1982, in accordance with section 18(a) of the Food Stamp Act: *Provided further*, That up to 5 per centum of the foregoing amount may be placed in reserve to be apportioned pursuant to section 3679 of the Revised Statutes, as amended, for use only in such amounts and at such times as may become necessary to carry out program operations: *Provided further*, That funds provided herein shall be expended in accordance with section 16 of the Food Stamp Act: *Provided further*, That this appropriation shall be subject to any work registration or workfare requirements as may be required by law: *Provided further*, That not less than \$65,000,000 of the amount provided herein shall be used for work registration and job search activities.

For an additional amount to carry out the Food Stamp Act (7 U.S.C. 2011-2028), \$292,000,000, for the period October 1, 1981, through August 15, 1982, should it become necessary after the Secretary has employed the regulatory and administrative methods available to him under the law to curtail fraud, waste and abuse in the program: *Provided*, That funds provided herein shall remain available until September 30, 1982: *Provided further*, That this appropriation shall be subject to any work registration or workfare requirements as may be required by law.

FOOD DONATIONS PROGRAMS

For necessary expenses to carry out section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)), \$48,220,000.

FOOD PROGRAM ADMINISTRATION

For necessary administration expenses of the Domestic Food Programs funded under this Act, \$86,461,000; of which \$5,000,000 shall be available only for simplifying procedures, reducing overhead costs, tightening regulations, improving food stamp coupon handling, and assistance in the prevention, identification and prosecution of fraud and other violations of law: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225),

and not to exceed \$150,000 shall be available for employment under 5 U.S.C. 3109.

OMNIBUS RECONCILIATION ACT OF 1980

(Public Law 96-499)¹³

* * * * *

REDUCTION IN GENERAL REIMBURSEMENT

SEC. 201. (a) Notwithstanding section 4 of the National School Lunch Act, for the fiscal year ending September 30, 1981, the national average payment per lunch under such Act for such fiscal year, after being adjusted under section 11(a) of such Act, shall be reduced by 2½ cents for any school food authority under which less than 60 percent of the lunches served in the school lunch program were served free or at reduced price during the second preceding school year. The amount of State administrative expense funds to be made available to the States by the Secretary of Agriculture under section 7 of the Child Nutrition Act of 1966 for the fiscal year ending September 30, 1983, and the amount of State revenues appropriated or used for meeting the requirements under section 7 of the National School Lunch Act for the school year ending June 30, 1982, shall not be reduced because of a reduction in the amount of Federal funds expended as a result of the preceding sentence. For the purpose of this section, the term "school food authority" means the governing body that is responsible for the administration of one or more schools and has the legal authority to operate a school lunch or school breakfast program.

* * * * *

REDUCTION IN COMMODITY ASSISTANCE

SEC. 202. (a) For the fiscal year ending September 30, 1981, the national average value of donated foods, or cash payments in lieu thereof, as determined under section 6(e) of the National School Lunch Act, shall be reduced by 2 cents.

* * * * *

INCOME ELIGIBILITY GUIDELINES

SEC. 203. (a) During the fiscal year ending September 30, 1981, the income poverty guidelines for the purposes of section 9 of the National School Lunch Act shall be the nonfarm income poverty guidelines prescribed by the Office of Management and Budget adjusted annually pursuant to section 625 of the Economic Opportunity Act of 1964 (42 U.S.C. 2971d) for the forty-eight States.

(b) In computing household income under section 9(b) of the National School Lunch Act for the fiscal year ending September 30, 1981—

(1) in States other than Alaska, Hawaii, and Guam, the Secretary shall allow a standard deduction of \$60 each month for

¹³ 94 Stat. 2599, Dec. 5, 1980.

each household, which shall be adjusted to the nearest \$5 on July 1, 1980, to reflect changes in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics, Department of Labor, for items other than food for the period beginning September 1977 and ending March 1980;

(2) the monthly standard deduction allowed in Alaska shall bear the same ratio to the standard deduction allowed in the contiguous States as the applicable income poverty guidelines for Alaska bear to the applicable income poverty guidelines for such States; and

(3) the monthly standard deduction allowed in Hawaii and Guam shall bear the same ratio to the standard deduction allowed in the contiguous States as the applicable income poverty guidelines for Hawaii bear to the applicable income poverty guidelines for such States.

(c) For the school year ending June 30, 1981, the Secretary may prescribe procedures for implementing the revisions in the income poverty guidelines for free and reduced price lunches contained in this section that may allow school food authorities to (1) use applications distributed at the beginning of the school year when making eligibility determinations based on the revised income poverty guidelines or (2) distribute new applications containing the revised income poverty guidelines and make eligibility determinations using the new applications.

* * * * *

SPECIAL ASSISTANCE

SEC. 204. * * *

(b) During the fiscal year ending September 30, 1981—

(1) no semiannual adjustment required under the sixth sentence of section 11(a) of the National School Lunch Act shall be made on January 1 of such fiscal year; and

(2) the adjustment required under the second proviso in the sixth sentence of section 11(a) of the National School Lunch Act which is to be made on July 1 of such fiscal year shall reflect the changes in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics, Department of Labor, for lunches served during the preceding 12-month period.

* * * * *

AMENDMENT TO THE CHILD CARE FOOD PROGRAM

SEC. 207.¹⁴ * * *

(b) The amendment made by subsection (a) of this section shall apply with respect to all fiscal years beginning on or after October 1, 1980.

¹⁴ Subsection (a) of section 207 amended section 17(a) of the National School Lunch Act to include as eligible institutions, private organizations providing nonresidential day care services for which compensation is received under title XX of the Social Security Act.

ADJUSTMENTS

SEC. 208. (a) During the fiscal year ending September 30, 1981, in determining the national average payment rate for supplements served in institutions (other than family or group day care home sponsoring organizations) participating in the child care food program under paragraphs (1) through (3) of section 17(c) of the National School Lunch Act—

(1) no adjustment under such paragraphs shall be made on January 1 of such fiscal year; and

(2) the adjustment under such paragraphs required to be made on July 1 of such fiscal year shall be computed to the nearest one-fourth cent based on changes, measured over the preceding twelve-month period for which data are available, in the series for food away from home of the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics, Department of Labor.

* * * * *

PAYMENTS FOR FREE BREAKFASTS

SEC. 210. Notwithstanding section 4(b)(2)(B)(ii) of the Child Nutrition Act of 1966, in determining the maximum payment for free breakfasts under such section for the fiscal year ending September 30, 1981—

(1) no adjustment under such section shall be made on July 1 of such fiscal year; and (2) the adjustment under such section required to be made on July 1 of such fiscal year shall be computed to the nearest one-fourth cent based on changes, measured over the preceding twelve-month period for which data are available, in the series for food away from home of the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics, Department of Labor.

* * * * *

OMNIBUS BUDGET RECONCILIATION ACT OF 1981

(Public Law 97-35)¹⁵

* * * * *

SEC. 803 * * *

(c) Notwithstanding any other provision of law, the Secretary of Agriculture shall conduct a pilot study to verify the data submitted on a sample of applications for free and reduced-price meals. In conducting the pilot study, the Secretary may require households included in the study to furnish social security numbers of all household members and such other information as the Secretary may require, including, but not limited to, pay stubs, documentation of the current status of household members who are recipients of public assistance, unemployment insurance documents, and written statements from employers, as a condition for receipt of free or reduced-price meals.

(d) For the school year ending June 30, 1982, the Secretary may prescribe procedures for implementing the revisions made by the

¹⁵Stat. 524 and 532, Aug. 13, 1981.

amendments contained in this section to the income eligibility guidelines for free and reduced-price lunches under section 9 of the National School Lunch Act. Such procedures may allow school food authorities to (1) use applications distributed at the beginning of the school year when making eligibility determinations based on the revised income eligibility guidelines, or (2) distribute new applications and make determinations using such applications.

* * * * *

SEC. 818. As soon as possible after the date of the enactment of this Act, the Secretary of Agriculture shall review regulations promulgated under section 10 of the Child Nutrition Act of 1966 (including regulations pertaining to nutritional requirements for meals) for the purposes of determining ways in which cost savings might be accomplished at the local level in the operation of meal programs under the National School Lunch Act and the Child Nutrition Act of 1966 without impairing the nutritional value of such meals. Not later than 60 days after the date of the enactment of this Act, on the basis of such review, the Secretary of Agriculture shall promulgate such regulations as the Secretary considers appropriate to effectuate such cost savings.

* * * * *

SEC. 820. (a) The provisions of this title shall take effect as follows:

(1) The amendments made by the following sections shall take effect on the first day of the month following the date of the enactment of this Act, or on September 1, 1981, whichever is earlier:

(A) section 801;

(B) that portion of the amendment made by section 810(c) pertaining to the reimbursement rate for supplements;

(C) that portion of the amendment made by section 810(d)(1) pertaining to the limitation on the number of meals for which reimbursement may be made under the child care food program;

(D) that portion of the amendment made by section 810(d)(3) which reduces the meal reimbursement factor by 10 percent; and

(E) section 811.

(2) The amendments made by sections 802 and 804 shall take effect on July 1, 1981.

(3) The amendments made by sections 807, 808, 810(a)(2) shall take effect on the first day of the second month following the date of the enactment of this Act.

(4) The amendments made by the following sections shall take effect October 1, 1981: sections 805, 806, 809, 810(a)(1), 810(f), 810(g), 812, 814, 817, and 819.

(5) The amendments made by section 813 shall take effect 90 days after the date of the enactment of this Act.

(6) The amendments made by the following provisions shall take effect January 1, 1982: subsection (b), (c), (d), and (e) of section 810, except that—

(A) the amendment made by section 810(c) pertaining to the reimbursement rate for supplements shall take effect as provided under paragraph (1) of this subsection;

(B) the amendment made by section 810(d)(1) pertaining to the limitation on the number of meals for which reimbursement may be made shall take effect as provided under paragraph (1) of this subsection; and

(C) the amendment made by section 810(d)(3) which reduces the meal reimbursement factor by 10 percent shall take effect as provided under paragraph (1) of this subsection.

(7) The following provisions shall take effect on the date of the enactment of this Act:

(A) the amendments made by subsections (a) and (b) of section 803 and the provisions of subsections (c) and (d) of section 803;

(B) the amendment made by section 815;

(C) the amendment made by section 816; and

(D) the provisions of section 818.

(b) The Omnibus Reconciliation Act of 1980 (Public Law 96-499) is amended—

(1) by striking out subsection (a) of section 201 effective September 1, 1981, or the first day of the first month following the month in which this Act is enacted, whichever is earlier;

(2) by striking out subsection 9(a) of section 202 effective July 1, 1981; and

(3) by striking out subsections (a) and (b) of section 203 effective on the date of the enactment of this Act.

(c) Not later than 60 days after the date of the enactment of this Act, the Secretary of Agriculture shall promulgate regulations to implement the amendments made by this title.

* * * * *

FOOD STAMP ACT AMENDMENTS OF 1980

(Public Law 96-249—May 26, 1980)¹⁶

* * * * *

DISCLOSURE PROVISIONS

SEC. 127. (a)(1) Subsection (i) of section 6103 of the Internal Revenue Code of 1954 (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end thereof the following new paragraph:

“(7) DISCLOSURE OF CERTAIN RETURN INFORMATION BY SOCIAL SECURITY ADMINISTRATION TO DEPARTMENT OF AGRICULTURE AND TO STATE FOOD STAMP AGENCIES.—

“(A) IN GENERAL.—The Commissioner of Social Security may disclose return information from returns with respect to net earnings from self-employment (as defined in section 1402), wages (as defined in section 3121(a) or 3401(a)), and payments of retirement income which have been disclosed to the Social

¹⁶ 91 Stat. 365-367, May 26, 1980.

Security Administration as provided by paragraph (1) or (5) of this subsection—

“(i) upon request, to officers and employees of the Department of Agriculture, and

“(ii) upon written request, to officers and employees of a State food stamp agency.

“(B) **RESTRICTION ON DISCLOSURE.**—The Commissioner of Social Security shall disclose return information under subparagraph (A) only for purposes of, and to the extent necessary in, determining an individual’s eligibility for benefits, or the amounts of benefits, under the food stamp program established under the Food Stamp Act of 1977.

“(C) **STATE FOOD STAMP AGENCY.**—For purposes of this paragraph, the term ‘State food stamp agency’ means any agency described in section 3(n)(1) of the Food Stamp Act of 1977 which administers the food stamp program established under such Act.”

(2)(A) Subparagraph (A) of section 6103(p)(3) of such Code (relating to records of inspection and disclosure) is amended by striking out “(1)(1) or (4)(B) or (5)” and inserting in lieu thereof “(1)(1), (4)(B), (5), or (7)”.

(B) Paragraph (4) of section 6103(p) of such Code (relating to safeguards) is amended by striking out “(1) (3) or (6)” in so much of such paragraph as precedes subparagraph (A) thereof and inserting in lieu thereof “(1) (3), (6), or (7)”.

(C) Clause (i) of section 6103(p)(4)(F) of such Code is amended by striking out “(1)(6)” and inserting in lieu thereof “(1) (6) or (7)”.

(D) The first sentence of paragraph (2) of section 7213(a) of such Code is amended—

(i) by striking out “or any educational institution” and inserting in lieu thereof “any educational institution, or any State food stamp agency (as defined in section 6103(1)(7)(C))”, and

(ii) by striking out “subsection (d), (1)(6), or (m)(4)(B)” and inserting in lieu thereof “subsection (d), (1) (6) or (7), or (m)(4)(B)”.

(3) The amendments made by this subsection shall take effect on the date of the enactment of this Act.

(b)(1) Section 303 of the Social Security Act is amended by adding at the end thereof the following new subsection:

“(d)(1) The State agency charged with the administration of the State Law—

“(A) shall disclose, upon request and on a reimbursable basis to officers and employees of the Department of Agriculture and to officers or employees of any State food stamp agency any of the following information contained in the records of such State agency—

“(i) wage information,

“(ii) whether an individual is receiving, has received, or has made application for, unemployment compensation, and the amount of any such compensation being received (or to be received) by such individual,

“(iii) the current (or most recent) home address of such individual, and

“(iv) whether an individual has refused an offer of employment and, if so, a description of the employment so offered and the terms, conditions, and rate of pay therefor, and

“(B) shall establish such safeguards as are necessary (as determined by the Secretary of Labor in regulations) to insure that information disclosed under subparagraph (A) is used only for purposes of determining an individual’s eligibility for benefits, or the amount of benefits, under the food stamp program established under the Food Stamp Act of 1977.

“(2) Whenever the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law, finds that there is a failure to comply substantially with the requirements of paragraph (1), the Secretary of Labor shall notify such State agency that further payments will not be made to the State until he is satisfied that there is no longer any such failure. Until the Secretary of Labor is so satisfied, he shall make no further certification to the Secretary of Treasury with respect to such State.

“(3) For purposes of this subsection, the term “State food stamp agency” means any agency described in section 3(n)(1) of the Food Stamp Act of 1977 which administers the food stamp program established under such Act.”

(2) Paragraph (2) of section 304(a) of the Social Security Act is amended by striking out “subsection (b) or (c)” and inserting in lieu thereof “subsection (b), (c), or (d)”.

(3) The amendments made by this subsection shall take effect on January 1, 1983.

MAJOR AUTHORITIES FOR COMMODITY DISTRIBUTION

SECTION 32—ACT OF AUGUST 24, 1935

(Public Law 74-320)¹

SEC. 32. There is hereby appropriated for each fiscal year beginning with the fiscal year ending June 30, 1936 an amount equal to 30 per centum of the gross receipts from duties collected under the customs laws during the period January 1 to December 31, both inclusive, preceding the beginning of each fiscal year.² Such sums shall be maintained in a separate fund and shall be used by the Secretary of Agriculture only to (1) encourage the exportation of agricultural commodities and products thereof by the payment of benefits in connection with the exportation thereof or of indemnities for losses incurred in connection with such exportation or by payments to producers in connection with the production of that part of any agricultural commodity required for domestic consumption; (2) encourage the domestic consumption of such commodities or products by diverting them, by the payment of benefits or indemnities or by other means, from the normal channels of trade and commerce or by increasing their utilization through benefits, indemnities, donations or by other means, among persons in low income groups as determined by the Secretary of Agriculture; and (3) reestablish farmers' purchasing power by making payments in connection with the normal production of any agricultural commodity for domestic consumption. Determinations by the Secretary as to what constitutes diversion and what constitutes normal channels of trade and commerce and what constitutes normal production for domestic consumption shall be final.

The sums appropriated under this section shall be expended for such one or more of the above-specified purposes, and at such times, in such manner, and in such amounts as the Secretary of Agriculture finds will effectuate substantial accomplishment of any

¹ The Act of August 24, 1935, 40 Stat. 750, 774. Although this section has been amended a number of times, the purposes of section 32—through payments or indemnities to encourage the exportation and domestic consumption of agricultural commodities and products and to reestablish farmers' purchasing power in connection with the normal production of agricultural commodities—remain basically the same since February 29, 1936. Authority to encourage consumption of agricultural commodities and products by their utilization among persons in low-income groups was added by amendment of clause (2) in 1939 (53 Stat. 975). Later amendments are noted.

Surplus agricultural commodities purchased under clause (2) may be donated for relief purposes and for use in nonprofit summer camps for children under the Act of June 28, 1937, and may be donated to schools and service institutions under sections 9 and 13 of the National School Lunch Act, as amended, and section 8 of the Child Nutrition Act of 1966.

² Section 205 of the Agricultural Act of 1956 authorized the appropriation for each fiscal year, beginning with the fiscal year ending June 30, 1957, of \$500,000,000 to enable the Secretary of Agriculture to further carry out the provisions of section 32, subject to all provisions of law relating to the expenditure of funds appropriated by such section, except that up to 50 percent of the \$500,000,000 may be devoted during any fiscal year to any one agricultural commodity or the products thereof.

one or more of the purposes of this section.³ Notwithstanding any other provision of this section, the amount that may be devoted, during any fiscal year after June 30, 1939, to any one agricultural commodity or the products thereof in such fiscal year, shall not exceed 25 per centum of the funds available under this section for such fiscal year. The sums appropriated under this section shall be devoted principally to perishable nonbasic agricultural commodities (other than those receiving price support under title II of the Agricultural Act of 1949)⁴ and their products.⁵ The sums appropriated under this section shall, notwithstanding the provisions of any other law, continue to remain available for the purposes of this section until expended; but any excess of the amount remaining unexpended at the end of any fiscal year over \$300,000,000 shall, in the same manner as though it has been appropriated for the service of such fiscal year, be subject to the provisions of section 3690⁶ of the Revised Statutes (U.S.C., title 31, sec. 712), and section 5⁶ of the Act entitled "An Act making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June thirtieth, eighteen hundred and seventy-five and for other purposes" (U.S.C., title 31, sec. 713).⁷

ACT OF JUNE 28, 1937⁸

(Public Law 75-165)

COMMODITIES FOR SUMMER CAMPS

To extend the time for purchase and distribution of surplus agricultural commodities for relief purposes and to continue the Federal Surplus Commodities Corporation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in carrying out the provisions of clause (2) of section 32 of the Act approved August 24, 1935 (49 Stat. 77), as amended, the Secretary of Agriculture may transfer to the Federal Surplus Commodities Corporation,⁹ which Corporation is continued, until June 30, 1945, as an agency of the United States under the direction of the Secretary of Agriculture, such funds, appropriated by said section, as may be necessary for the purpose of effectuating clause (2) of said section: *Provided*, That such transferred funds, together with other funds of the Corporation, may be used for purchasing, exchanging, processing, distributing, disposing, transporting, storing, and handling of agricultural commodities and products thereof and inspection costs, commissions, and other incidental costs and expenses, without

³ For the administration of section 32, not to exceed 4 percent of the total amount available for such section in any fiscal year may be used for that purpose under the limitation contained in section 392(b) of the Agricultural Act of 1938, as amended.

⁴ The clause within the parentheses was substituted for "other than those designated in title II of the Agricultural Act of 1949" by sec. 5 of the Act of January 30, 1954, 68 Stat. 4.

⁵ This sentence was added by sec. 411 of the Agricultural Act of 1949, 63 Stat. 1057.

⁶ Superseded by the Act of July 6, 1949, 63 Stat. 407, 31 U.S.C. 712a, and the Act of July 25, 1956, 70 Stat. 647, as amended, 31 U.S.C. 701-708.

⁷ This sentence was added by section 301 of the Agricultural Act of 1948, 62 Stat. 1257.

⁸ 50 Stat. 323; February 16, 1938; 52 Stat. 31, 38; June 27, 1942, 56 Stat. 461.

⁹ The functions of the Federal Surplus Commodities Corporation have been transferred to the Secretary of Agriculture (15 U.S.C. 713c note, 713c-2 note) and the Corporation has been dissolved.

regard to the provisions of existing law governing the expenditure of public funds and for administrative expenses, including rent, printing and binding, and the employment of persons and means, in the District of Columbia and elsewhere, such employment of persons to be in accordance with the provisions of law applicable to the employment of persons by the Agricultural Adjustment Administration.

In carrying out clause (2) of section 32, the funds appropriated by said section may be used for the purchase, without regard to the provisions of existing law governing the expenditure of public funds, of agricultural commodities and products thereof, and such commodities, as well as agricultural commodities and products thereof purchased under the preceding paragraph of this section, may be donated for relief purposes and for use in nonprofit summer camps for children.¹⁰

SECTIONS 4 AND 5—AGRICULTURE AND CONSUMER PROTECTION ACT OF 1973

(Public Law 93-347)

COMMODITY DISTRIBUTION PROGRAM

SEC. 4.¹¹ (a) Notwithstanding any other provision of law, the Secretary may, during fiscal years 1982, 1983, 1984, and 1985, purchase and distribute sufficient agricultural commodities with funds appropriated from the general fund of the Treasury to maintain the traditional level of assistance for food assistance programs as are authorized by law, including but not limited to distribution to institutions, supplemental feeding programs wherever located, disaster areas, summer camps for children, the United States Trust Territory of the Pacific Islands, and Indians, whenever a tribal organization requests distribution of federally donated foods pursuant to section 4(b) of the Food Stamp Act of 1977. In providing for commodity distribution to Indians, the Secretary shall improve the variety and quantity of commodities supplied to Indians in order to provide them an opportunity to obtain a more nutritious diet.

(b)¹² The Secretary may furnish commodities to summer camps for children in which the number of adults participating in camp activities as compared with the number of children under 18 years of age so participating is not unreasonable in light of the nature of such camp and the characteristics of the children in attendance.

(c)¹³ * * *

¹⁰ The last nine words were added by the Act of July 2, 1958, 72 Stat. 286.

¹¹ P.L. 93-86, 87 Stat. 249, Aug. 10, 1973. As originally enacted, subsection (a) authorized the use of section 32 and Commodity Credit Corporation funds to purchase agricultural commodities and their products to maintain distribution to domestic food assistance programs until July 1, 1974. P.L. 93-347, 88 Stat. 340, July 12, 1974, amended the subsection to require use of section 32 and section 416 funds for such purchases through June 30, 1975, and to require the use of appropriated funds for such purchases for the two fiscal years ending June 30, 1977 (extended to Sept. 30, 1977, by P.L. 94-273, 90 Stat. 375, April 27, 1975). The present language was enacted by sec. 1304 of P.L. 95-113, 91 Stat. 980, Sept. 29, 1977.

¹² P.L. 93-86, 87 Stat. 249, Aug. 10, 1973; amended by sec. 1304 of P.L. 95-113, 91 Stat. 980, Sept. 29, 1977. The section originally prohibited the donation of commodities if the number of adults was in excess of one for each five children.

¹³ Provisions dealing with supplemental security income enacted by P.L. 93-86, 87 Stat. 249, Aug. 10, 1973, were repealed by sec. 1302 of P.L. 95-113, 91 Stat. 979, Sept. 29, 1977.

COMMODITY SUPPLEMENTAL FOOD PROGRAM

SEC. 5.¹⁴ (a) In carrying out the supplemental feeding program (hereinafter referred to as the "commodity supplemental food program") to which reference is made in section 4 of this Act, the Secretary of Agriculture shall pay to each State or local agency administering any such program, for each of the fiscal years 1978 through 1981, an amount equal to its administrative costs not in excess of an amount equal to 15 per centum of the total amount of the value of commodities made available to the State or local agency for such program in such fiscal year.

(b) During the first three months of any commodity supplemental food program, or until such program reaches its projected caseload level, whichever comes first, the Secretary shall pay those administrative costs necessary to commence the program successfully: *Provided*, That in no event shall administrative costs paid by the Secretary for any fiscal year exceed the limitation established in subsection (a) of this section.

(c) Administrative costs for the purposes of the commodity supplemental food program shall include, but not be limited to, expenses for information and referral, operation, monitoring, nutrition education, start-up costs, and general administration, including staff, warehouse and transportation personnel, insurance, and administration of the State or local office.

(d) During each fiscal year the commodity supplemental food program is in operation, the types and varieties of commodities and their proportional amounts shall be determined by the Secretary, but, if the Secretary proposes to make any significant changes in the types, varieties, or proportional amounts from those that were available or were planned at the beginning of the fiscal year (or as were available during the fiscal year ending June 30, 1976, whichever is greater) the Secretary shall report such changes before implementation to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(e) The Secretary of Agriculture is authorized to issue such regulations as may be necessary to carry out the commodity supplemental food program.

SECTION 416—AGRICULTURAL ACT OF 1949

(Public Law 81-439)

DISPOSITION OF COMMODITIES TO PREVENT WASTE

SEC. 416.¹⁵ In order to prevent the waste of commodities whether in private stocks or ¹⁶ acquired through price-support operations by

¹⁴ This section added by section 1304(b) of P.L. 95-113, 91 Stat. 980, Sept. 29, 1977.

¹⁵ The provisions of this section were substituted for the previous provisions by section 302 of the Agricultural Trade Development and Assistance Act of 1954, P.L. 83-480, 68 Stat. 458, July 10, 1954. See section 9 of P.L. 85-931, 72 Stat. 1972, Sept. 6, 1958, providing for distribution of commodities under section 416 to overseas areas under the jurisdiction or administration of the United States.

The Food for Peace Act of 1966, P.L. 89-808, 80 Stat. 1538, Nov. 11, 1966, deleted all references to foreign donations from section 416, effective Jan. 1, 1967.

¹⁶ The words "whether in private stocks or" were added by P.L. 86-108, 73 Stat. 250, July 24, 1959.

the Commodity Credit Corporation before they can be disposed of in normal domestic channels without impairment of the price-support program or sold abroad at competitive world prices, the Commodity Credit Corporation is authorized, on such terms and under such regulations as the Secretary may deem in the public interest: (1) upon application, to make such commodities available to any Federal agency for use in making payment for commodities not produced in the United States; (2) to barter or exchange such commodities for strategic or other materials as authorized by law; (3) in the case of food commodities to donate such commodities to the Bureau of Indian Affairs and to such State, Federal, or private agency or agencies as may be designated by the proper State or Federal authority and approved by the Secretary, for use in the United States in nonprofit school-lunch programs,¹⁷ in nonprofit summer camps for children,¹⁸ in the assistance of needy persons, and in charitable institutions, including hospitals, to the extent that needy persons are served. In the case of (3) the Secretary shall obtain such assurance as he deems necessary that the recipients thereof will not diminish their normal expenditures for food by reason of such donation. In order to facilitate the appropriate disposal of such commodities, the Secretary may from time to time estimate and announce the quantity of such commodities which he anticipates will become available for distribution under (3). The Commodity Credit Corporation may pay, with respect to commodities disposed of under this section, reprocessing, packaging, transporting, handling, and other charges accruing up to the time of their delivery to a Federal agency or to the designated State or private agency. In addition, in the case of food commodities disposed of under this section, the Commodity Credit Corporation may pay the cost of processing such commodities into a form suitable for home or institutional use, such processing to be accomplished through private trade facilities to the greatest extent possible.¹⁹ For the purpose of this section the terms "State" and "United States" include the District of Columbia and any Territory or possession of the United States. Dairy products acquired by the Commodity Credit Corporation through price support operations may, insofar as they can be used in the United States in nonprofit school lunch and other nonprofit child feeding programs, in the assistance of needy persons, and in charitable institutions, including hospitals, to the extent that needy persons are served, be donated for any such use prior to any other use or disposition.²⁰

¹⁷ See P.L. 86-756, 74 Stat. 899, Sept. 13, 1959, as amended, authorizing the use of surplus foods for training home economics students.

¹⁸ The words "in nonprofit summer camps for children," were added by P.L. 85-483, 72 Stat. 286, July 2, 1958.

¹⁹ This sentence was added by the Agricultural Act of 1956, P.L. 540, 84th Cong., 70 Stat. 203, May 28, 1956.

²⁰ This sentence was added by P.L. 91-233, 84 Stat. 199, April 17, 1970. A last sentence relating to supplemental security income was deleted.

SECTION 709—FOOD AND AGRICULTURE ACT OF 1965

(Public Law 89-321)

PURCHASE OF DAIRY PRODUCTS

SEC. 709.²¹ The Secretary of Agriculture is hereby authorized to use funds of the Commodity Credit Corporation to purchase sufficient supplies of dairy products at market prices to meet the requirements of any programs for the schools (other than fluid milk in the case of schools), domestic relief distribution, community action, and such other programs as are authorized by law, when there are insufficient stocks of dairy products in the hands of Commodity Credit Corporation available for these purposes.

SECTION 311—COMPREHENSIVE OLDER AMERICANS ACT OF 1978

(Public Law 95-478)

AVAILABILITY OF SURPLUS COMMODITIES

SEC. 311. (a)(1) Agricultural commodities and products purchased by the Secretary of Agriculture under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), shall be donated to a recipient of a grant or contract to be used for providing nutrition services in accordance with the provisions of this title.

(2) The Commodity Credit Corporation shall dispose of food commodities under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431) by donating them to a recipient of a grant or contract to be used for providing nutrition services in accordance with the provisions of this title.

(3) Dairy products purchased by the Secretary of Agriculture under section 709 of the Food and Agriculture Act of 1965 (7 U.S.C. 1446a-1) shall be used to meet the requirements of programs providing nutrition services in accordance with the provisions of this title.

(4) In donating commodities under this subsection, the Secretary of Agriculture shall maintain an annually programmed level of assistance of not less than 15 cents per meal during fiscal year 1976, 25 cents per meal during fiscal year 1977 and fiscal year 1978, and 30 cents per meal during the three succeeding fiscal years. The amount specified in this paragraph shall be adjusted on an annual basis for each fiscal year after June 30, 1975, to reflect changes in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor. Such adjustment shall be computed to the nearest one-fourth cent. Among the commodities delivered under this subsection, the Secretary shall give special emphasis to high protein foods, meat, and meat alternates. The Secretary of Agriculture, in consultation with the Commissioner, is authorized to prescribe the terms and conditions respecting the donating of commodities under this subsection.

²¹ P.L. 89-321. 79 Stat. 1212, November 3, 1965, amended by P.L. 89-808, 80 Stat. 1538, Nov. 11, 1966. The words "foreign distribution" appearing after the words "community action" were deleted by the Act of November 11, 1966.

(b)(1) During each of the fiscal years ending before October 1, 1981, the Secretary of Agriculture shall purchase high protein foods, meat, and meat alternates on the open market, at prices not in excess of market prices, out of funds appropriated under this section, as determined under paragraph (3), for distribution to recipients of grants or contracts to be used for providing nutrition services in accordance with the provisions of this title. High protein foods, meat, and meat alternates purchased by the Secretary of Agriculture under this subsection shall be grown and produced in the United States.

(2) High protein foods, meat, and meat alternates donated under this subsection shall not be considered donated commodities for purposes of meeting the requirement of subsection (a)(4) with respect to the annually programmed level of assistance under subsection (a).

(3) There are authorized to be appropriated such sums as may be necessary in order to carry out the program established by paragraph (1).

(c)(1) Notwithstanding any other provision of law, a State may, for purposes of the programs authorized by this Act, elect to receive cash payments in lieu of donated foods for all or any portion of its project. In any case in which a State makes such an election, the Secretary of Agriculture shall make cash payments to such State in an amount equivalent in value to the donated foods which the State otherwise would have received if such State had retained its commodity distribution.

(2) When such payments are made, the State agency shall promptly and equitably disburse any cash it receives in lieu of commodities to recipients of grants or contracts. Such disbursements shall only be used by such recipients of grants or contracts to purchase United States agricultural commodities and other foods for their nutrition projects.

(3) Nothing in this subsection shall be construed to authorize the Secretary of Agriculture to require any State to elect to receive cash payments under this subsection.

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OLDER AMERICANS ACT OF 1965²²

TITLE III—GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING

Part A—GENERAL PROVISIONS

* * * * *

SEC. 307. (a) Except as provided in section 309(a), each State, in order to be eligible for grants from its allotment under this title for any fiscal year, shall submit to the Commissioner a State plan for a two-, three-, or four-year period determined by the State agency,

²² P.L. 89-73, was amended by P.L. 92-258, 86 Stat. 94, March 22, 1972, to add § 107 which allowed the Secretary of Agriculture to donate commodities to recipients of grants or contracts for nutrition services under the Older American Act of 1965. P.L. 95-478, 92 Stat. 1533, October 18, 1978, restructured the Act and added sections 307, 311, 331, 336 and 337. Sections 307 and 311 were further amended by sections 7 and 9, P.L. 97-115, 95 Stat. 1598-1600, December 29, 1981.

with such annual revisions as are necessary, which meets such criteria as the Commissioner may by regulation prescribe. Each such plan shall—

* * * * *

(13) provide with respect to nutrition services that—

(A) each project providing nutrition services will be available to individuals aged 60 or older to their spouses, and may be made available to handicapped or disabled individuals who have not attained 60 years of age but who reside in housing facilities occupied primarily by the elderly at which any congregate nutrition services are provided;

(B) primary consideration shall be given to the provision of meals in a congregate setting, except that each area agency (i) may award funds made available under this title to organizations for the provision of home delivered meals to older individuals in accordance with the provisions of subpart 2 of part C, based upon a determination of need made by the recipient of a grant or contract entered into under this title, without requiring that such organizations also provide meals to older individuals in a congregate setting; and (ii) shall, in awarding such funds, select such organizations in a manner which complies with the provisions of subparagraph (H);

(C)(i) each project will permit recipients of grants or contracts to charge participating individuals for meals furnished in accordance with guidelines established by the Commissioner, taking into consideration the income ranges of eligible individuals in local communities and other sources of income of the recipients of a grant or contract; and

(ii) such charges will be used to increase the number of meals served by the project involved, to facilitate access to such meals, and to provide other supportive services directly related to nutrition services;

(D) in the case of meals served in a congregate setting, a site for such services and for comprehensive social services is furnished in as close proximity to the majority of eligible individuals' residences as feasible, with particular attention upon a multipurpose senior center, a school, a church, or other appropriate community facility, preferably within walking distance where possible, and where appropriate, transportation to such site is furnished;

(E) each project will establish outreach activities which assure that the maximum number of eligible individuals may have an opportunity to participate;

(F) each project may establish and administer the nutrition project with the advice of persons competent in the field of service in which the nutrition project is being provided, older individuals who will participate in the program, and of persons who are knowledgeable with regard to the needs of older individuals;

(G) each project will provide special menus, where feasible and appropriate, to meet the particular dietary needs

arising from the health requirements, religious requirements, or ethnic backgrounds of eligible individuals;

(H) each area agency will give consideration, where feasible, in the furnishing of home delivered meals to the use of organizations which (i) have demonstrated an ability to provide home delivered meals efficiently and reasonably; and (ii) furnish assurances to the area agency that such an organization will maintain efforts to solicit voluntary support and that funds made available under this title to the organization will not be used to supplant funds from non-Federal sources; and

(I) each area agency shall establish procedures that will allow nutrition project administrators the option to offer a meal, on the same basis as meals are provided to elderly participants, to individuals providing volunteer services during the meal hours.

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SEC. 311. (a)(1) Agricultural commodities and products purchased by the Secretary of Agriculture under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), shall be donated to a recipient of a grant or contract to be used for providing nutrition services in accordance with the provisions of this title.

(2) The Commodity Credit Corporation shall dispose of food commodities under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431) by donating them to a recipient of a grant or contract to be used for providing nutrition services in accordance with the provisions of this title.

(3) Dairy products purchased by the Secretary of Agriculture under section 709 of the Food and Agriculture Act of 1965 (7 U.S.C. 1446a-1) shall be used to meet the requirements of programs providing nutrition services in accordance with the provisions of this title.

(4) Subject to the authorization of appropriations specified in subsection (d), in donating commodities under this subsection, the Secretary of Agriculture shall maintain an annually programmed level of assistance of not less than 15 cents per meal during fiscal year 1976, 25 cents per meal during fiscal year 1977 and fiscal year 1978, and 30 cents per meal for each fiscal year thereafter. The amount specified in this paragraph shall be adjusted on an annual basis for each fiscal year after June 30, 1975, to reflect changes in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor. Such adjustment shall be computed to the nearest one-fourth cent. Among the commodities delivered under this subsection, the Secretary shall give special emphasis to high protein foods, meat, and meat alternates. The Secretary of Agriculture, in consultation with the Commissioner, is authorized to prescribe the terms and conditions respecting the donating of commodities under this subsection.

(b)(1) Notwithstanding any other provision of law, a State may, for purposes of the programs authorized by this Act, elect to receive cash payments in lieu of donated foods for all or any portion of its project. In any case in which a State makes such an election,

the Secretary of Agriculture shall make cash payments to such State in amount equivalent in value to the donated foods which the State otherwise would have received if such State had retained its commodity distribution.

(2) When such payments are made, the State agency shall promptly and equitably disburse any cash it receives in lieu of commodities to recipients of grants or contracts. Such disbursements shall only be used by such recipients of grants or contracts to purchase United States agricultural commodities and other foods for their nutrition projects.

(3) Nothing in this subsection shall be construed to authorize the Secretary of Agriculture to require any State to elect to receive cash payments under this subsection.

(d)(1) There are authorized to be appropriated \$93,200,000 for fiscal year 1982, \$100,000,000 for fiscal year 1983, and \$105,000,000 for fiscal year 1984, to carry out the provisions of this section (other than the provisions of subsection (a)(1)) and such additional sums as may be necessary for each such fiscal year to maintain the level of reimbursement for the number of meals served under such provisions in fiscal year 1981.

(2) In any fiscal year in which compliance with subsection (a)(4) of this section costs more than the amounts authorized under paragraph (1) of this subsection for that fiscal year the Secretary of Agriculture shall reduce the cents per meal level determined pursuant to subsection (a)(4) for that fiscal year as necessary to meet the authorization of appropriation for that fiscal year.

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Part C—NUTRITION SERVICES

Subpart 1—Congregate Nutrition Services

PROGRAM AUTHORIZED

SEC. 331. The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 for the establishment and operations of nutrition projects—

(1) which, 5 or more days a week, provide at least one hot or other appropriate meal per day and any additional meals which the recipient of a grant or contract under this subpart may elect to provide, each of which assures a minimum of one-third of the daily recommended dietary allowances as established by the Food and Nutrition Board of the National Academy of Sciences-National Research Council;

(2) which shall be provided in congregate settings; and

(3) which may include nutrition education services and other appropriate nutrition services for older individuals.

Subpart 2—Home Delivered Nutrition Services

PROGRAM AUTHORIZED

SEC. 336. The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 for the establishment and operation of nutrition projects for

older individuals which, 5 or more days a week, provide at least one home delivered hot, cold, frozen, dried, canned, or supplemental foods (with a satisfactory storage life) meals per day and any additional meals which the recipient of a grant or contract under this subpart may elect to provide, each of which assures a minimum of one-third of the daily recommended dietary allowances as established by the Food and Nutrition Board of the National Academy of Sciences-National Research Council.

CRITERIA

SEC. 337. The Commissioner, in consultation with organizations of and for the aged, blind, and disabled, and with representatives from the American dietetic Association, the Association of Areas Agencies on Aging, the National Association of Title VII Project Directors, the National Association of Meals Programs, Incorporated, and any other appropriate group, shall develop minimum criteria of efficiency and quality for the furnishing of home delivered meals services for projects described in section 336. The criteria required by this section shall take into account the ability of established home delivered meals programs to continue such services without major alteration in the furnishing of such services.

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AGRICULTURAL ACT OF 1980

(Public Law 96-494)²³

DISTRIBUTION OF EXCESS AGRICULTURAL COMMODITIES THROUGH COMMUNITY FOOD BANKS

SEC. 211.²⁴ (a) The Secretary of Agriculture shall carry out special nutrition projects to provide agricultural commodities and other foods that might not otherwise be used, or might be more effectively used by organizations assisted under this section, to community food banks for emergency food box distribution to needy individuals and families. Notwithstanding any other provisions of law, the Secretary shall make available for purposes of such special nutrition projects agricultural commodities and other foods available to the Secretary under section 416 of the Agricultural Act of 1949, section 709 of the Food and Agriculture Act of 1965, and section 32 of the Act of August 24, 1935 (7 U.S.C. 612c). For purposes of distributing agricultural commodities and other foods to community food banks under this section, the Secretary may, in consultation with State agencies, use food distribution systems currently

²³ Section 1114(d) of Public Law 97-98, 95 Stat. 1269, December 22, 1981, provides that section 4(b) of the Food Stamp Act of 1977 shall not apply with respect to distribution of surplus commodities under section 211 of the Agricultural Act of 1980.

²⁴ Section 211 of Public Law 96-494, 94 Stat. 2577, December 3, 1980, was amended by section 1114(b) and (c) of Public Law 97-98, 95 Stat. 1269, December 22, 1981. The amendment redesignated the "demonstration projects" as "special nutrition projects", changed the requirement for a final report to Congress on October 1, 1982, to a "progress report on July 1, 1983, and a final report on January 1, 1984", and changed the authorization of appropriations from the specific sum of "\$356,000" to "such sums as may be necessary to carry out this section". In addition the amendment inserted a new subsection (f), redesignated the existing subsection (f) as subsection (g), and changed the section heading from "Food Bank Demonstration Projects" to "Distribution of Excess Agricultural Commodities through Community Food Banks".

used to distribute agricultural commodities and other foods under the National School Lunch Act and Child Nutrition Act of 1966. The Secretary shall select food banks, in consultation with the Director of the Community Services Administration, for participation in the special nutrition projects under this section. Food banks shall be selected for participation so as to ensure adequate geographic distribution of emergency food box programs in at least two but not more than seven Department of Agriculture regions.

(b)(1) No food bank may participate in the special nutrition projects conducted under this section unless an application therefor is submitted to and approved by the Secretary. Such application shall be submitted in such form and manner and shall contain such information as the Secretary shall prescribe.

(2) Each food bank participating in the special nutrition projects under this section shall establish a recordkeeping system and internal procedures to monitor the use of agricultural commodities and other foods provided under this section. The Secretary shall develop standards by which the feasibility and effectiveness of the projects shall be measured, and shall conduct an ongoing review of the effectiveness of the projects.

(c) The Secretary shall determine the quantities and types of agricultural commodities and other foods to be made available under this section. The Secretary may prescribe regulations regarding the designation of eligible participants in the projects and any other regulations necessary to carry out this section.

(d) The Secretary shall submit to Congress a progress report on July 1, 1983, and a final report on January 1, 1984, regarding the special nutrition projects carried out under this section. Such report shall include an analysis and evaluation of Federal participation in food bank emergency food programs, the effectiveness of such participation, and the feasibility of continuing such participation. The Secretary shall also include in such report any recommendations regarding improvements in Federal assistance to community food banks, including assistance for administrative expenses and transportation.

(e) The sale of food provided under this section shall be prohibited and any person who receives any remuneration in exchange for food provided under this section shall be subject to a fine of not more than \$1,000 or imprisonment for not more than six months, or both.

(f) The Secretary shall minimize paperwork requirements placed on food banks which participate in the special nutrition projects established under this section and shall otherwise encourage food banks to participate in such projects.

(g) There is authorized to be appropriated such sums as may be necessary to carry out this section.

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AGRICULTURE AND FOOD ACT OF 1981

(Public Law 97-98)²⁵

DISTRIBUTION OF SURPLUS COMMODITIES; SPECIAL NUTRITION PROJECTS

SEC. 1114. (a) Notwithstanding any other provision of law, whenever Government stocks of commodities are acquired under the price support programs and are not likely to be sold by the Commodity Credit Corporation or otherwise used in programs of commodity sale or distribution, such commodities shall be made available without charge or credit to nutrition projects under the authority of the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.), to child nutrition programs providing food service, and to food banks participating in the special nutrition projects established under section 211 of the Agricultural Act of 1980. Such distribution may include bulk distribution to congregate nutrition sites and to providers of home delivered meals under the Older Americans Act of 1965. The Commodity Credit Corporation is authorized to use available funds to operate the program under this subsection and to further process products to facilitate bonus commodity use.

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²⁵ Stat. 1213, Dec. 22, 1981.